10-30-91
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Wednesday
October 30, 1991

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 25, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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Presidential Documents

Title 3—

The President

Proclamation 6366 of October 25, 1991

World Population Awareness Week, 1991

By the President of the United States of America

A Proclamation

Demographic trends among the world's population, which now surpasses 5.4 billion, cannot be overlooked as a factor when we examine important global issues such as economic development and environmental degradation. That is why we do well to observe World Population Awareness Week.

The United States has long recognized that population growth, in and of itself, is a neutral phenomenon. Indeed, as we stated during the 1984 International Conference on Population, because every human being represents hands to work, and not just "another mouth to feed," population growth may be an asset or a liability depending on such factors as government economic policies, agricultural practices, and a nation's ability to put men and women to work. Rapid population growth is often occurring in those nations where economic stagnation, attributable in large part to the failure to adopt market-oriented policies, makes them less able to cope with economic and environmental challenges. For example, population growth may be viewed as a threat in countries where excessive government controls eliminate incentives for farmers and other workers to produce, where housing and health care facilities do not keep pace, or where precious natural resources are used without regard to future needs. Demographic change can also become problematic when a nation fails to anticipate or to respond to such trends as massive urban migration. However, because people are producers as well as consumers, population growth can also be a sign and a source of strength.

The United States has been a leader in efforts to focus attention on population issues—particularly in less developed nations where population growth and related demands for land, public services, and other resources have exceeded their availability. At the Houston Economic Summit, the G–7 leaders stated that "In a number of countries, sustainable development requires that population growth remain in some reasonable balance with expanding resources * * *. Improved educational opportunities for women and their greater integration into the economy can make important contributions to population stabilization programs." Currently, the United States, cognizant of the rights and responsibilities of individuals and families and respectful of religious and cultural values, provides nearly half of all international assistance that supports effective, safe, and voluntary family planning programs. This aid is but one part of a comprehensive economic development assistance program. We have also taken a strong position in the global community to address problems such as illiteracy, poverty, and environmental degradation. Indeed, recognizing the need to use precious natural resources wisely, we have worked to promote sustainable development. We have also consistently advocated the political and economic freedom vital to the advancement of individuals and nations.

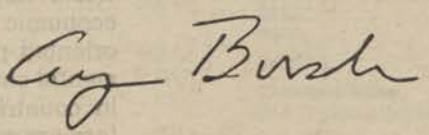
Of course, no nation can achieve acceptable levels of productivity and progress without a *healthy* population. Thus, the United States will continue to support and to promote programs that are designed to improve maternal and child health. We will continue to support education and disease prevention, as well as programs that target the specific health problems of the poor—problems that are often aggravated by such factors as poor sanitation and the lack of safe drinking water.

During World Population Awareness Week, we reflect on the importance of every one of these efforts and reaffirm our commitment to them. After all, by promoting the health of individuals and the strength and stability of families, we can enhance the well-being of entire nations.

The Congress, by Senate Joint Resolution 160, has designated the week beginning October 20, 1991, as "World Population Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 20 through October 26, 1991, as World Population Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-26314
Filed 10-28-91; 1:49 pm]
Billing code 3195-01-M

Proclamation 6367 of October 28, 1991

Refugee Day, 1991

By the President of the United States of America

A Proclamation

The United States has long been both a symbol of hope and a source of substantial aid for refugees around the world. Through private voluntary organizations as well as government agencies, the American people have provided generous humanitarian assistance to millions of persons dislocated by natural disaster or by civil strife. We have also kept our doors open to people seeking refuge from tyranny and persecution, and we have encouraged other free nations to do likewise. By working hard to reap the rewards of freedom and opportunity, thousands of refugees have not only built new lives for themselves in the United States but also made invaluable contributions to our country.

While we have welcomed many refugees to these shores, the United States has also been working to overcome the conditions that force large numbers of people to flee their beloved homelands. We have consistently condemned political and religious persecution, and we have championed human rights while promoting the ideals of liberty, democratic pluralism, and tolerance. We have also worked to promote the peaceful resolution of conflicts and sustainable economic development in countries beset by poverty. Tragically, however, despite progress in these areas, the number of refugees worldwide has doubled during the past decade: according to the Department of State, their number has grown from 7,300,000 to an estimated 16,000,000. More than 11,000,000 of these refugees are concentrated in the Near East, in Asia, and in Africa. In all regions of the world, women and children continue to be the most seriously affected.

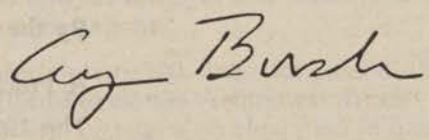
The international community must continue to uphold its fundamental responsibilities toward refugees. For our part, the United States remains firmly committed to assisting refugees and to contributing toward international relief efforts. The United States Government will continue to support the work of the United Nations High Commissioner for Refugees. Recognizing the value and the effectiveness of international cooperation on a wide range of global problems, we will also continue to urge other nations to increase their bilateral and multilateral assistance to refugees. Finally, because the refugee crisis is primarily the result of systematic government repression and bitter civil strife in some regions of the world, the United States will continue to promote respect for human rights and the rule of law, as well as the peaceful resolution of conflicts.

The demise of communism and the triumph of democratic movements around the world has brought about an era of promise and opportunity. Heartened by this knowledge, let us build on the progress we have made so that all peoples might enjoy the blessings of freedom and security in their respective homelands.

The Congress, by Senate Joint Resolution 192, has designated October 30 of each year as "Refugee Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 30, 1991, as Refugee Day. I encourage all Americans to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eight day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-26321
Filed 10-28-91; 1:56 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-91-302]

Fresh Fruits, Vegetables and Other Products [1] (Inspection, Certification, and Standards)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations governing inspection, certification and standards for fresh fruits, vegetables and other products by increasing the fees charged for the inspection of these products and changing certain of the bases for calculating fees. The revision will adjust the fees to recover the costs of performing inspection services at destination markets, as authorized by the Agricultural Marketing Act (AMA) of 1946, and adjust the bases of calculating fees under certain specific inspection situations to improve the accuracy of the fees in recovering the cost of service.

EFFECTIVE DATE: October 30, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas C. Bailey, 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, Telephone (202) 447-5870.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601 *et seq.*).

The final rule reflects fee increases needed to recover the costs of services rendered in accordance with the Agricultural Marketing Act (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 final rule will 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 12, 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.

A notice of proposed rulemaking was published in the **Federal Register** (56 FR 41491-41493) on August 21, 1991 with a thirty day comment period. The comment period closed on September 20, 1991. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Agricultural Marketing Service. No public comments were received regarding this proposed rule. However, paragraphs (i) and (ii) of § 51.38(a) (2) and (3) have been revised to clarify the fee when carlot quantities exceed a full carlot equivalent.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The program will incur over a $1,460,000 loss in fiscal year 1991 alone; (2) this action should be made effective upon publication in the **Federal Register** so that fees will reflect the costs of services rendered as soon as possible and; (3) interested persons were afforded a 30-day comment period and no comments were received.

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, 7 CFR part 51 is 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.

§ 51.2 [Amended]

2. In Subpart-Regulations, § 51.2 paragraphs (m) through (t) are redesignated (n) through (u) respectively, paragraphs (d) through (k) are redesignated as (f) through (m) respectively, and paragraph (l) is redesignated as (d).

3. Section 51.2 is 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] Among such other products are the following: Raw nuts; Christmas trees and evergreens; flowers and flower bulbs; and onion sets.

(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 is 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 is 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 over a half carlot equivalent of an individual product.

(ii) $52 for 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 over half carlot equivalent of an individual product.

(ii) $47 for a 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 dock-side 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 dockside 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 holiday charges for time shall be rounded to the nearest half hour.

6. Section 51.39 is 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 is 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 is 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: October 25, 1991.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 91-26143 Filed 10-29-91; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 966

[Docket No. FV-91-429]

Florida Tomatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 966 for the 1991-92 fiscal period. Authorization of this budget enables the Florida Tomato Committee (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: August 1, 1991, through July 31, 1992.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-447-2020.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 125 and Order No. 966 (7 CFR part 966), regulating the handling of tomatoes grown in Florida. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 50 handlers of Florida tomatoes under this marketing order, and approximately 250 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Florida tomato producers and handlers may be classified as small entities.

The budget of expenses for the 1991–92 fiscal period was prepared by the Florida Tomato Committee, the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are producers of Florida tomatoes. They are familiar with the committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses.

The committee met on September 5, 1991, and unanimously recommended a 1991–92 budget of $2,295,000, $331,000 more than the previous year. Major increases are in the office salaries, employee travel, depreciation, employees' health insurance, and social security tax categories, plus the addition of an escrow category under research. The committee anticipates recommending additional research projects later in the season and wanted to have the funds available. These funds will remain in escrow until such projects are recommended by the research subcommittee and approved by the Department.

The committee also unanimously recommended an assessment rate of $0.04 per 25-pound container of tomatoes, an increase from last season's rate of $0.035. This rate, when applied to anticipated shipments of 55,000,000 25-pound containers, will yield $2,200,000 in assessment income. This, along with $40,000 in interest and other income and $55,000 from the committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1991–92 fiscal period, estimated at $825,606, were within the maximum permitted by the order of one fiscal period's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** on September 26, 1991 (56 FR 48764). This document contained a proposal to add § 966.229 to authorize expenses and establish an assessment rate for the committee. This rule provided that interested persons could file comments through October 7, 1991. No comments were filed.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1991 fiscal period began on August 1, 1991, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable tomatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

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

2. A new § 966.229 is added to read as follows:

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

§ 966.229 Expenses and assessment rate.

Expenses of $2,295,000 by the Florida Tomatoe Committee are authorized, and an assessment rate of $0.04 per 25-pound container of Florida tomatoes is established for the fiscal period ending July 31, 1992. Unexpected funds may be carried over as a reserve.

Dated: October 23, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–26072 Filed 10–29–91, 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 91–046]

Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the brucellosis regulations (1) to provide that as a condition of attaining and maintaining status as Class Free, Class A, Class B, or Class C, a State or area must meet certain conditions concerning individual herd plans; and (2) to revise the criteria for designating States or areas as quarantined.

EFFECTIVE DATE: November 29, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6188.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States (areas) according to the rate of *brucella* infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

On December 31, 1985, we published a proposed rule in the **Federal Register** (50 FR 53332–53335, Docket Number 85–073) in which we proposed to amend the regulations (1) to provide that as a condition of attaining and maintaining status as Class Free, Class A, Class B, or Class C, a State or area must meet certain conditions concerning individual herd plans; (2) to revise the criteria for quarantining States or areas; (3) to quarantine the State of Oklahoma; and (4) to clarify the regulations regarding the downgrading of the brucellosis status of a State or area.

We solicited comments on the proposed rule for a 60-day period ending March 3, 1986, and received 20 comments. The commenters included members of Congress, State departments of agriculture, the American Veterinary Medical Association, a State veterinary medical association, livestock organizations, and other members of the public. Four commenters supported the proposed rule without change. The remainder of the commenters recommended changes to certain provisions of the proposal. These comments are discussed below.

In our proposal, we set forth the rationale for each of the changes we proposed to make to the regulations, based on the brucellosis disease risk in the United States at that time. Except as noted below, the situations which prompted our proposed changes continue to exist today.

The proposed regulations provided that, as a condition of a State or area attaining and maintaining either Class Free, Class A, Class B, or Class C status, all herds in that State or area that are known to be affected with brucellosis would be required to have, within a specified period of time, approved individual herd plans for testing and monitoring the herds for brucellosis. The current regulations already require that, as a condition of attaining one of the four classifications, all herds adjacent to reactor herds, and all herds having contact with cattle in reactor herds, have approved individual herd plans for testing or monitoring. One commenter opposed the requirements for herd plans as proposed. The commenter expressed the opinion that insufficient State personnel exist to monitor the proposed herd plans adequately. We are making no changes based on this comment. The provisions in 9 CFR part 51 already require that herd owners develop a herd plan for quarantined herds in order to receive indemnity for cattle and bison that are destroyed. Therefore, the provisions of this final rule will not increase the burden of monitoring herd plans.

The remainder of the commenters who recommended changes to the proposal opposed the quarantining of the State of Oklahoma, stating that it would be inappropriate to quarantine an entire State for the failure of a small number of herd owners to comply with Federal regulations, as described in the proposal. In this final rule, we are not adopting our proposal to quarantine the State of Oklahoma. When we proposed to quarantine the State of Oklahoma, certain herd owners there either had not agreed to the required individual herd plans for the elimination of brucellosis from their herds, or were not following the part of their individual herd plans providing for regular testing of their herds and removal of reactors. However, since the time the proposal was published, these herd owners have come into compliance with the regulations. In fact, based on the rate of brucella infection in Oklahoma, and the general effectiveness of that State's brucellosis control and eradication program, on April 4, 1991, we published a document in the **Federal Register** (56 FR 13750–13751, Docket Number 91–041) in which we raised the brucellosis classifications of Oklahoma from Class B to Class A.

We also proposed to amend the criteria for quarantining States or areas. At the time the proposal was published, § 78.22 of the regulations provided for quarantining areas because of "the existence of the contagion of brucellosis and the nature and extent of such contagion in certain areas which do not have control and eradication procedures adequate to prevent the interstate dissemination of the disease." To clarify the intent of the regulations, we proposed to amend § 78.22 to provide that a State or area that does not meet the criteria for Class Free, Class A, Class B, or Class C status shall be designated as quarantined. No commenters addressed this proposed change, and we continue to consider it appropriate. However, since the time the proposal was published, we published another rulemaking document that moved the criteria for quarantining States or areas from § 78.22 to the definition of "quarantined area" in § 78.1. Therefore, in this final rule, we are amending the definition of "quarantined area" to read: "An area that does not meet the criteria for classification as Class Free, Class A, Class B, or Class C."

Additionally, we proposed to amend the regulations concerning the downgrading of States or areas. At the time the proposal was published, the provisions in § 78.25 read as follows:

> In the case of any reclassification to a lower class, the State animal health official of the State involved will be notified of such downgrading and shall be given an opportunity to request an administrative review and to present his objections and arguments to the Deputy Administrator prior to the downgrading taking effect.

Similar, but less detailed, provisions for downgrading States or areas, including downgrading States or areas to quarantined status, were set forth at other places in the regulations. In our proposal, we proposed to consolidate all procedures for downgrading, including downgrading to quarantined status, in § 78.25. However, since the time the proposal was published, we published another rulemaking document that set forth criteria for downgrading and other reclassification in § 78.40. No commenters opposed our proposed provision, and we continue to consider it appropriate to set forth the criteria for reclassification in one section of the regulations. Therefore, in this final rule, we are amending § 78.40 to set forth the provisions we proposed to include in § 78.25. In our proposal, we also proposed to remove the provisions regarding reclassification that appear in § 78.1 in the definitions of States or areas considered "Class Free," "Class A," "Class B," and "Class C." While we continue to consider it appropriate to remove the provisions themselves from those definitions, for purposes of clarity we are including in those definitions references to the procedures set forth in § 78.40.

Formatting and Terminology Changes

As we discuss above in this "Supplementary Information," since the

publication of our December 31, 1985, proposed rule, we have published rulemaking documents that reformatted certain portions of part 78. In addition to the changes we specifically discuss above, we are making certain other nonsubstantive formatting changes in this final rule to conform with the formatting changes already made in part 78.

Additionally, in this final rule we have replaced the term "Deputy Administrator" wherever it appeared in the proposal with the term "Administrator," and have replaced the term "Veterinary Services" with the term "APHIS," to reflect nonsubstantive terminology changes that were made in a separate rulemaking document after publication of our proposal.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There are currently over 1.3 million herds of cattle in the United States. Of these, fewer than 850—less than 1 percent of the total number of herds—are quarantined for brucellosis as affected herds. Additionally, the provisions in 9 CFR Part 51 already require that herd owners develop a herd plan for quarantined herds, in order to receive indemnity for cattle and bison that are destroyed. The remainder of the provisions of this final rule simply clarify the intent of the existing regulations, and are not expected to have an economic impact.

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

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been given the OMB control number 0579–0047.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 78

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

Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.1 [Amended]

2. In § 78.1, in the definitions of "Class A State or area," "Class B State or area," "Class C State or area," and "Class Free State or area," the introductory text of each of the definitions is amended by removing the second sentence and adding a new second sentence to read as follows: "Any reclassification will be made in accordance with § 78.40 of this part."

3. In § 78.1, in the definitions of "Class A State or area," "Class B State or area," "Class C State or area," and "Class Free State or area," a new paragraph (a)(3)(iii) is added in each of the definitions to read as follows: "(iii) Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator."

4. In § 78.1, in the definitions of "Class A State or area," "Class B State or area," "Class C State or area," and "Class Free State or area," a new paragraph (b)(3) is added in each of the definitions to read as follows:

§ 78.1 Definitions.

* * * * *

Class A State or area. * * *

* * * * *

(b) * * *

(3) All herds known to be affected shall have approved individual herd plans in effect within 15 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

* * * * *

Class B State or area. * * *

* * * * *

(b) * * *

(3) All herds known to be affected shall have approved individual herd plans in effect within 45 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

* * * * *

Class C State or area. * * *

* * * * *

(b) * * *

(3) All herds known to be affected shall have approved individual herd plans in effect within 45 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

* * * * *

Class Free State or area. * * *

(b) * * *

(3) All herds known to be affected shall have approved individual herd plans in effect within 15 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

* * * * *

5. In § 78.1, the definition of "Quarantined area" is revised to read as follows:

§ 78.1 Definitions.

* * * * *

Quarantined area. An area that does not meet the criteria for classification as Class Free, Class A, Class B, or Class C.

* * * * *

6. In § 78.40, the last sentence is revised to read as follows:

§ 78.40 Designations of States/areas.

* * * In the case of any reclassification to a lower class, reclassification as a quarantined State or area, or removal of validated brucellosis-free status, the State animal health official of the State involved will be notified of such reclassification or removal, and will be given an opportunity to present objections and arguments to the Administrator prior to the reclassification or removal taking place.

Done in Washington, DC, this 24th day of October 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-26084 Filed 10-29-91; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 98

[Docket No. 91-020]

RIN 0579-AA35

Importation of Cattle Embryos from Countries Where Rinderpest or Foot-and-Mouth Disease Exists

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our animal embryo regulations to allow cattle embryos to be imported into the United States from countries where rinderpest or foot-and-mouth disease exists, subject to various restrictions to ensure the embryos' freedom from communicable diseases. These importations have been prohibited. Research with animal embryos now indicates, however, that cattle embryos produced, collected, and handled under certain conditions may be imported from countries where rinderpest or foot-and-mouth disease exists without significant risk of introducing these or other communicable diseases of cattle into the United States. This action will make additional sources of genetic material available to domestic cattle breeders.

EFFECTIVE DATE: November 29, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Teachman, Staff Veterinarian, Import-Export Animals Staff, VS, APHIS, USDA, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; (301) 436-8590.

SUPPLEMENTARY INFORMATION:

Background

Traditionally, genetic improvements in populations of domestic cattle have been made through the importation of postnatal animals and, more recently, through the importation of animal semen. Embryo transfer technology now offers an efficient and cost-effective alternative. With this technology, embryos can be collected from one cow, frozen, and later thawed and transferred to the reproductive tracts of other cows to complete gestation.

Regulations governing the importation of cattle embryos and certain other animal embryos are contained in 9 CFR part 98. The Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of animal embryos to prevent the introduction of exotic animal diseases into the United States. Before the effective date of this final rule, the importation of cattle embryos from countries where rinderpest or foot-and-mouth disease exists was prohibited.

In the **Federal Register** of November 23, 1990 (55 FR 48854-48863, Docket No. 88-046), we published a document that proposed to amend the regulations to allow the importation of cattle embryos from countries where rinderpest or foot-and-mouth disease exists. This proposal was based on research indicating that these importations can be allowed under certain conditions without significant risk of introducing foot-and-mouth disease, rinderpest, or other communicable diseases of cattle into the United States.[1]

Written comments on the proposed rule were solicited for a 60-day period ending January 22, 1991. Two public hearings were held: One in Denver, Colorado, on December 11, 1990, and one in Washington, DC, on December 14, 1991. We received 14 written comments by the close of the comment period; three individuals spoke at the public hearings. Only 3 commenters opposed the proposed rule. Eight commenters offered suggestions to improve the rule. All of the objections and suggestions are discussed below.

Except for the changes noted in this Supplementary Information section, we are adopting the proposed rule as a final rule for the reasons given in the proposal and in this document.

[1] For more information on the research referred to in this document, see:

1. Singh, E.L. The Disease Control Potential of Embryos. Theriogenology. 27:9-20 (1987).

2. Singh, E.L., McVicar, J.W., Hare, W.C.D. Embryo transfer as a means of controlling the transmission of viral infections. VII. The in-vitro exposure of bovine and porcine embryos to foot-and-mouth disease virus. Theriogenology. 27:587-593 (1986).

3. McVicar, J.W., Singh, E.L., Mebus, C.A., and Hare, W.C.D. Embryo transfer as a means of controlling the transmission of viral infections. VIII. Failure to detect foot-and-mouth disease viral infectivity associated with embryos collected from infected donor cattle. Theriogenology. 26:595-602 (1986).

Copies may be obtained from the sources listed under **"FOR FURTHER INFORMATION CONTACT."** Further scientific studies, co-funded by the United States Department of Agriculture, Animal and Plant Health Inspection Service; Agriculture Canada, Animal Disease Research Institute; and Secretary of Agriculture, Argentina, have been done by C.A. Mebus, E.L. Singh, J.A. Villar, O. LaPorte, C. Munar, R. Vautier, D. Salamon, N. Caamano, A. Sadir, B. Carrillo, and J. Callis. These studies support the conclusions made in the above listed articles.

Comments

Embryo Collection Teams

We proposed to require that all procedures associated with the production of embryos for importation to the United States be supervised by an official veterinarian. "Official veterinarian" was defined as follows: "As agreed to by APHIS and the national government of the country of origin, either a full-time salaried veterinarian of the national government of the country of origin or a veterinarian employed by the Animal and Plant Health Inspection Service." The proposed rule also required the official veterinarian's signature on the health certificate that must accompany the embryos to the United States.

Three commenters suggested that embryo collection should be accomplished by special embryo collection teams that are officially recognized and approved by the government of an exporting country. Two of these commenters went on to say that if such teams were used, "sanitary guarantees" could be made by a team veterinarian, and the official veterinarian would only be responsible for certifying that the collection team was approved.

We have made no substantive changes based on these comments, since our rule does not preclude the use of embryo collection teams. Under our rule, all procedures associated with collection of embryos for importation into the United States must be performed under the supervision of an official veterinarian. This does not mean that these procedures must be performed *by* an official veterinarian. Further, although the rule requires that an official veterinarian sign the health certificate that accompanies the embryos to the United States, this signature may be an endorsement. Thus, our rule already allows a veterinarian other than an official veterinarian to provide "sanitary guarantees," and this veterinarian could be part of a collection team approved by the national government of an exporting country. We are not requiring that approved embryo collection teams be used because not all countries will have them or wish to use them.

We have edited proposed § 98.14(a) to make it easier to understand who may issue a certificate and whose signatures are required on a certificate. In addition, in various places in the text of the rule we have changed "the official veterinarian" to read "an official veterinarian" to clarify that the duties of

an official veterinarian may be carried out by more than one veterinarian.

Permit

Our proposed rule provided that embryos were not to be imported into the United States unless accompanied by an import permit issued by APHIS. The proposed rule required importers to submit an application for the permit. Our proposed rule also required that test samples be submitted to the Foreign Animal Disease Diagnostic Laboratory (FADDL) in the United States prior to the importation, but did not specify that a permit was required for importation of the test samples.

One commenter recommended that we require all test samples sent to FADDL to be accompanied by a permit. Another commenter suggested that we require a two-stage permit process as follows. Stage 1: After an initial application, APHIS would issue an "authorizing permit," granting permission for the testing and collection process to begin. Copies of the "authorization permit" would need to accompany all test samples to the FADDL. Stage 2: Upon receipt of a second application and copies of all completed health certificates, APHIS would issue a "permit to import" the embryos. The commenter maintained that this two-stage process would assure the exporter that the health documentation was in order before the embryos were shipped, and would assist APHIS in clearing the embryos for entry when they arrived in the United States.

We agree that a permit should accompany all test samples to the FADDL, since the samples could contain infectious disease agents. Therefore, the final rule requires that a permit accompany the test samples. The permit to import the test samples will not, however, require a separate application. APHIS will simply issue two successive permits in response to the single application for permit required by the regulations: One permit for importing the test samples and the other permit for importing the embryos themselves.

We do not believe it is necessary for APHIS to review copies of completed health certificates before issuing a permit to import embryos. This process could unnecessarily delay the importation of embryos. However, exporters and others are welcome to consult with APHIS at any time if a question arises concerning health certification of the embryos.

Identification on the Health Certificate

Our proposed rule required that the donor dam and donor sire be identified on the health certificate. No particular method of identification was required; however, if codes were used, the proposal required that deciphering information be attached to the certificate.

One commenter recommended that the donor dam and the donor sire be identified on the health certificate by the number that is on their official certificate of registration or identification. The same commenter also suggested that record forms recommended by the International Embryo Transfer Society (IETS) be used in conjunction with the health certificate "so that there is a complete record of embryo recovery with service record to the donor dam and complete identification and accounting for each straw containing an embryo frozen from the respective recovery." Another commenter said that APHIS should require use of IETS codes and standards for identification.

We have made no changes in the final rule based on these comments. Identification of the donor dam and donor sire on the health certificate and on the straws containing the embryos is necessary to ensure that the embryos can be identified to their donor dam and donor sire. Forms, codes, and identification standards recommended by the IETS may be used, and registration or other information may be provided on the certificate and straws if desired by the importer. However, we see no need to require that any particular system of identification be used, or to require that breed registration information be provided. We will accept any combination of letters, numbers, or symbols that allow the embryos to be identified to their individual donor dam and donor sire.

Labeling of the Straw

Our proposed rule required that the location of the embryo collection unit, among other information, be recorded on each straw or ampule containing the embryos intended for importation to the United States (see § 98.17(f)(4)). We did not require that the practitioner who performs the embryo collection be identified on the straws or ampules. One commenter maintained that we should require the codes for the practitioner, rather than the location of the embryo collection unit, to be recorded on the straws or ampules.

We have made no changes in this final rule based on this comment. The location of the embryo collection unit would be of immediate importance in the event of a disease outbreak in the country where the embryos were collected. Knowing the location of the embryo collection unit and the location of the outbreak, we could determine whether the outbreak put the embryos at risk for transmitting disease. If we need to contact the practitioner who collected the embryos, we can do so through an official veterinarian. We have attempted to keep our information requirements to a minimum. However, the identification of the practitioner may be recorded on the straws or ampules, in addition to the location of the embryo collection unit; there is nothing in our rule prohibiting additional information from being provided.

Health Certification of Donor Sire; Additional Protection Against Diseases

Our proposed rule contained various testing and certification requirements to ensure the donor dam's freedom from rinderpest, foot-and-mouth disease, contagious bovine pleuropneumonia, Rift Valley fever, vesicular stomatitis, bovine spongiform encephalopathy, brucellosis, tuberculosis, and any previously unrecognized communicable disease of ruminants. This last category was intended to provide protection against the introduction of new diseases. The proposed rule did not require health certification of the donor sire.

Several commenters asserted that we should add certification requirements for the donor sire and/or semen. One commenter expressed concern that the proposed testing and certification requirements might not be adequate to prevent the introduction of diseases other than those specifically listed, and recommended that we add provisions for testing or certification to ensure donors' freedom from other diseases. Another commenter expressed concern that the health certification requirements we proposed for the donor dam might not be adequate to prevent the introduction of bovine spongiform encephalopathy (BSE).

In most cases, we believe that the health status of the embryos can be concluded from the health status of the donor dam and by tests of organic samples from the collection of embryos. We also believe that, in most cases, the proposed health certification requirements for the donor dam and the proposed requirements for processing of the embryos and testing the collection and wash fluids will be adequate to determine the health status of the embryos. However, there may be circumstances under which it would be prudent to ascertain the health status of the donor sire. With respect to BSE, additional tests or certifications of the donor dam, and testing or other health certification of the donor sire, may be

warranted in countries with a high prevalence or increase in the incidence of BSE. Also, while the diseases specifically listed are those of primary concern to the domestic livestock industry, it is not our intent to allow the importation of embryos infected with or contaminated by any infectious disease agents.

Therefore, this final rule provides that the Administrator may require additional testing or certifications if he or she determines that such tests or certifications are necessary to determine either the donor dam's or the donor sire's freedom from infectious agents that may cause communicable diseases. Circumstances that may result in additional testing or certifications include, but are not limited to: (1) The existence of communicable diseases of livestock, other than those diseases specifically listed, in the country of origin; (2) a high prevalence or an increase in the incidence of a communicable disease in the country of origin; (3) the use of natural breeding, rather than artificial insemination, to conceive the embryos; (4) the use of fresh, rather than frozen semen, for artificial insemination; and (5) the use of semen collected at a site other than an artificial insemination center approved by the national government of the country of origin. It is not possible to specify the particular tests or certifications that may be required because these would depend on the specific disease or diseases that are of concern.

Additionally, in response to these comments, this final rule provides that the Administrator may require additional measures to be taken in processing embryos after collection (for example, adding trypsin to the washes) if he or she determines that such measures are necessary to ensure the embryos' freedom from infectious agents that may cause communicable diseases. Circumstances that may result in such additional measures being required include, but are not limited to: (1) The existence of communicable diseases of livestock, other than those diseases specifically listed, in the country of origin; and (2) a high prevalence or an increase in the incidence of a communicable disease in the country of origin.

Limits on Natural Breeding

Under the proposed rule, embryos imported into the United States could be the result of either artificial insemination or natural breeding. One commenter recommended that we limit the breeding of dairy-type donor dams to artificial insemination "because there is no potential market for embryos that could result from natural service." We have made no changes in the final rule based on this comment because our rulemaking authority with respect to the importation of cattle embryos is limited to preventing the introduction and spread of communicable diseases.

Embryo Collection Unit

Our proposed rule required that either a room or area that can be cleaned and disinfected be used for embryo collection. The proposal allowed for collection of the embryos either indoors or outdoors. One commenter maintained that we should not allow an outdoor area to be used for embryo collection. Another commenter stated that the rule "does not differentiate between the sanitized portion for the actual insemination and embryo collection and the portion in which the donors will be housed between insemination and collection."

Our proposed rule did not require embryo collection to be performed indoors, and did not require that artificial insemination or collection be performed in a room or area separate from the animal holding area, because we believe that adequate sanitary measures can be taken to prevent contamination during these activities. Because of the susceptibility of the embryos to contamination at the time of collection, however, this final rule requires that embryos collected outdoors must be collected by using a closed collection system so that the embryos are not exposed to open air until they are inside the embryo processing room.

Our proposed rule did not specify that any particular location for the embryo collection unit was either required or prohibited. One commenter said that we should specify that the embryo collection unit "can be a part of the premises where the donor dam usually stays, if it is separated, specially installed and equipped for washing and cleaning." Another commenter asked that we clarify that embryos collected on farms are eligible for importation provided that certain conditions are met.

Our rule does not prohibit an embryo collection unit from being located on the farm where the donor dam is kept. The same requirements concerning the embryo collection unit apply, whether the collection unit is on the farm or at a separate location. To clarify this, we have added language to the introductory paragraph of § 98.16 stating that the embryo collection unit may be located on the premises where the donor dam's herd of origin is kept, or at any other location, provided that the requirements in § 98.16 are met.

Our proposed rule required that the embryo collection unit have one lockable area used only for storing frozen embryos intended for importation into the United States. One commenter asked whether the area could be used to store embryos intended for other destinations when the area is not in use for embryos destined for the United States. The answer is yes, and we have reworded § 98.16(d) in the final rule to clarify our requirements.

Access by APHIS

Our proposed rule required that APHIS officials be given access to the embryo collection unit and to the donor dam's herd of origin during the time the donor dam must be kept there (see § 98.17(b)(2)). Two commenters asked whether this requirement means that APHIS officials will be present in all cases and for all transfer operations. The answer is no. When officials of the exporting country serve as official veterinarians, APHIS wants access only to make random inspections to monitor compliance with the regulations. Of course, an APHIS official will be present in all cases when APHIS officials are official veterinarians.

Cleaning and Disinfection

Our proposed rule required that the embryo collection room or area and any restraining devices used for embryo collection be cleaned and disinfected "before each use" (proposed § 98.16(b)(2); redesignated as § 98.17(d)(4) in this final rule). One commenter asked if "before each use" means before each different donor dam. We did not intend to require cleaning and disinfection of the embryo collection area or room and restraining devices each time a new donor dam enters the collection room or area. We have clarified this requirement in the final rule by replacing "before each use" with "before using the room or area for collecting embryos intended for importation to the United States, and at least daily while in use for this purpose." The term "before each use" also was used in the proposed rule with respect to cleaning and disinfection of the embryo processing area and the area used for cleaning and disinfecting or sterilizing equipment (proposed §§ 98.16(c)(2) and 98.16(e)(2); redesignated as §§ 98.17(d)(5) and 98.17(d)(7) in this final rule.) We have revised these provisions to clarify when cleaning and disinfection is required.

Our proposed rule required that various rooms, areas, materials, and

equipment be cleaned and disinfected (see proposed §§ 98.16 and 98.17). One commenter maintained that we should require that disinfectants be used "properly." We agree that disinfection, and a number of other activities required by our rule, should be carried out "properly." That is why proposed § 98.17(b)(1) provided that "all procedures associated with the production of embryos for importation to the United States, including artificial insemination, natural breeding, collection of test samples, collecting, processing, and storing the embryos, and cleaning and disinfection of equipment, must be performed under the supervision of the official veterinarian." In response to this specific comment, however, we have revised § 98.17(b)(1) to clarify that all cleaning and disinfection, not just cleaning and disinfection of equipment, must be performed under the supervision of an official veterinarian.

Media

Our proposed rule required that all media used for embryo collection and processing be from sources in the United States or Canada. Several commenters suggested that we allow the use of media from other sources approved by APHIS, as well as from the United States or Canada. We have made no changes in the final rule based on this comment. Although it may be possible in the future to allow use of media from countries other than the United States or Canada, we do not now have a set of criteria for approving other sources.

Our proposed rule listed the provision concerning the origin of media under the heading "Products of animal origin; cryogenic agent." Several commenters pointed out that media may not be of animal origin and should not be referred to as a product of animal origin. They are correct. We have changed the heading in the final rule to "Media; cryogenic agent," and have changed the text to refer to media "containing products of animal origin."

Test Samples

Our proposed rule required that all nontransferrable embryos and unfertilized eggs from each collection of embryos intended for importation into the United States be pooled, frozen in liquid nitrogen, and sent to FADDL for testing. One commenter stated that he would have no objection to sacrificing one embryo for testing purposes if the collection produces no nontransferrable embryos or unfertilized eggs. We have made no changes in this final rule based on this comment. If a collection produces no nontransferrable embryos or unfertilized eggs, tests of the collection and wash fluids alone will be adequate to detect viral and bacterial contamination. The addition of one embryo would not significantly affect the results of this testing.

Use of Laboratories Other Than FADDL

Our proposed rule required that all test samples be sent to the Foreign Animal Disease Diagnostic Laboratory (FADDL) in the United States for testing, and stipulated that only results of tests performed at the FADDL would be accepted as official. Three commenters suggested that official laboratories in other countries be approved to conduct tests required by our rule. We have made no changes in the final rule based on these comments because, at present, we have no standards or procedures in place for approving laboratories for this work.

Collection of Embryos

One commenter recommended that we require the embryos to be collected by the official veterinarian. We have made no changes in the final rule based on this comment because we do not believe it is necessary for an official veterinarian to personally collect the embryos. This final rule will require that collection be under the supervision of an official veterinarian and that an official veterinarian sign the health certificate. We believe these requirements are sufficient to ensure that the collection is carried out properly.

Embryo Processing

One commenter suggested that we use a word other than "manipulation" when referring to the handling of embryos after collection, since manipulation is a term more commonly used in connection with procedures involving invasion of the zona pellucida. We agree, and have replaced the term "manipulation" in § 98.16(c)(1) with the word "handling."

Shipment of Embryos to the United States

Our proposed rule stated that embryos must arrive at the port of entry not more than 14 days after the proposed date of arrival listed on the import permit. One commenter asked whether 14 days was reasonable. Another suggested that we allow 15 working days and stipulate that the importer is responsible for direct coordination with the port veterinarian. We have made no changes in the final rule based on these comments. The 14-day window will allow APHIS to manage inspectors' workloads while providing importers with some scheduling flexibility.

Procedures at the Port of Entry

Our proposed rule stated that, upon arrival of the embryos at the port of entry, the importer or the importer's agent must present an inspector at the port with certain documents, and the shipping container and all straws or ampules containing embryos must be made available for inspection.

One commenter maintained that we should not require the importer or an agent for the importer to be present at the port of entry. We have made no changes in the final rule based on this comment. By requiring the presence of either the importer or the importer's agent, we have given the importer the widest latitude in choosing someone to be at the port. The importer must ensure that someone is present at the port to present the required papers, as well as the shipping container and all straws or ampules containing embryos, to an inspector. APHIS cannot be responsible for the shipment.

Miscellaneous

Two commenters recommended that we revise our regulations concerning the importation of embryos from countries free of rinderpest and foot-and-mouth disease (9 CFR part 98, subpart A). These regulations are being reviewed to determine the need for any revisions. If we determine that revisions are necessary, a new proposed rule will be published in the **Federal Register** for comment. There does not appear to be any reason in the meantime to delay action on this final rule concerning the importation of cattle embryos from countries where rinderpest or foot-and-mouth disease exists.

Other Changes

The proposed rule required that frozen embryos to be imported into the United States be stored in a locked area or remain in the custody of an official veterinarian until they were sealed and released for shipment to the United States in accordance with § 98.18(a). Section 98.18(a) requires that the embryos remain at the embryo collection unit until all post-collection examinations and tests are completed and all test results have been provided by the Foreign Animal Disease Diagnostic Laboratory. We are making a change in this final rule to allow embryos to be moved to and held at a U.S. Department of Agriculture-operated animal import center in either New York, Hawaii, or Florida, pending the receipt of test results, if the embryos are moved to the animal import center under seal and in the custody of an APHIS veterinarian who is designated

as an official veterinarian. This is a procedural change which would only affect APHIS officials.

We have also made several nonsubstantive, editorial changes in the final rule for clarity.

User Fees

This rule provides that an official veterinarian will provide certain inspection services (supervision, inspection, and testing) in the country of origin of the embryos. When an APHIS veterinarian is designated as an official veterinarian, he or she will have to travel to the country of origin to provide these services. Also, under this rule, when the official veterinarian is not an APHIS veterinarian, APHIS officials may make inspections in the country of origin on a random basis to monitor compliance with the regulations. The importer of the embryos may be required to pay for these inspection services in accordance with a proposed rule on user fees published in the **Federal Register** on August 7, 1991 (56 FR 37481–37499, Docket 90–021). The proposed rule would establish user fees for, among other things, certain inspection services that APHIS provides outside the United States. These provisions were at § 130.8, pages 37497–37498, of the proposed rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule will allow the importation of cattle embryos from countries where rinderpest or foot-and-mouth disease exists subject to various restrictions to ensure the embryos' freedom from communicable diseases. Importation of cattle embryos from these countries is currently prohibited. Post-natal cattle may be imported from these countries only through the Animal and Plant Health Inspection Service's Harry S Truman Animal Import Center (HSTAIC).

This rule will benefit the cattle industry in the United States by providing a cost-effective alternative to importing post-natal cattle from countries where rinderpest or foot-and-mouth disease exists.

During 1980 through 1985, 633 cattle were imported through the HSTAIC, an average of 105 cattle a year over the six years. No cattle have been imported from countries where rinderpest or foot-and-mouth disease exists since 1985. The cost of importing cattle through the HSTAIC would vary, depending upon a number of factors, including the purchase price of the cattle, the number of animals imported, and transportation costs. We estimate that importing 105 cattle through the HSTAIC would cost approximately $7604 per head, based on a per head purchase price of $2500, quarantine fee of $4047, and transportation cost of $1030.

Frozen embryos could be imported and used to produce the same number of cattle at a much lower cost. We estimate that 105 cattle could be produced from frozen embryos imported in accordance with this rule at a cost of approximately $2520 per animal. This figure is based on a purchase price of $350 for each of 210 embryos (we assumed a 50 percent chance of successful pregnancy in the recipient cow), fees of $1750 for embryo collection and associated activities, and transportation costs of $70.

In fiscal year 1989, 22 importers received permits to import cattle embryos from countries free of rinderpest or foot-and-mouth disease. When this rule is effective, we expect that the number of importers applying for permits to import cattle embryos will increase, but not significantly. The increase will be made up of importers specializing in importing embryos containing previously unavailable genetics. Most, if not all, importers of cattle embryos will be classified as small entitites.

We expect that this rule also will result in an increase in the number of cattle embryos imported into the United States, resulting in a larger supply. We estimate that allowing cattle embryos to be imported from countries where rinderpest or foot-and-mouth disease exists could cause the average price of a frozen cattle embryo in the United States to decrease from $400 to $350. This decrease will be offset by the growing demand for embryo imports, however, as evidenced by a five-fold increase in the number of permits issued from 1987 though 1989 for cattle embryos from countries free of rinderpest or foot-and-mouth disease.

The greatest impact of this rule will be the long-term benefits of making bovine germplasm from countries where rinderpest or foot-and-mouth disease exists available to the domestic cattle industry: production of higher quality beef and dairy cattle at lower cost

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

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions included in this rule have been submitted for approval to the Office of Management and Budget (OMB).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 98

Animal diseases, Animal embryos, Animal semen, Imports, Livestock and livestock products, Poultry semen, Transportation.

Accordingly, 9 CFR part 98 is amended as follows:

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

1 The authority citation for part 98 continues to read as follows.

Authority: 7 U.S.C. 1622; 21 U S.C. 103, 104, 105, 111, 134a, 134b, 134c, 134d, 134f, 31 U S.C. 9701, 7 CFR 2.17, 2.51, and 371.2(d).

§§ 98.1 and 98.2 [Redesignated as §§ 98.2 and 98.1]

2. In part 98, §§98.1 and 98.2 are redesignated as § 98.2, and § 98.1, respectively; the heading for subpart A is removed; and a new subpart heading is added before §§ 98.2 through 98.10 to read as follows:

Subpart A—Ruminant and Swine Embryos from Countries Free of Rinderpest and Foot-and-Mouth Disease; and Embryos of Horses and Asses

§§ 98.2, 98.4, 98.9 [Amended]

3. In part 98, the word "part" is removed and the word "subpart" is added in its place in the following sections:

(a) In § 98.2, the introductory text (2 places);

(b) In § 98.4, paragraph (d) (2 places); and

(c) In § 98.9, the first sentence.

4. In § 98.3, the introductory text is revised to read as follows:

§ 98.3 General conditions.

Except as provided in Subpart B of this part, an animal embryo shall not be imported into the United States unless it is from a country listed in § 94.1(a)(2) of this chapter as being free of rinderpest and foot-and-mouth disease, and:

* * * * *

§§ 98.4, 98.5 [Amended]

5. In part 98, the phrase "An embryo shall not be imported" is removed and the phrase "Except as provided in Subpart B of this part, an animal embryo shall not be imported" is added in its place in the following sections:

(a) In § 98.4, paragraph (a); and

(b) In § 98.5, the introductory text.

§ 98.8 [Amended]

6. In § 98.8, the phrase "in accordance with this subpart" is added after "United States".

Subpart B, §§ 98.20–98.29 [Redesignated as Subpart C §§ 98.30–98.39]

7. In part 98, Subpart B, §§ 98.20 through 98.29 is redesignated as Subpart C §§ 98.30 through 98.39, and a new Subpart B is added to read as follows:

Subpart B—Cattle Embryos from Countries Where Rinderpest or Foot-and-Mouth Disease Exists

Sec.

§ 98.11 Definitions.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Cattle. Members of the species *Bos indicus* or *Bos taurus.*

Collection of embryos. Embryos removed from a single donor dam in one operation.

Country of origin. The country in which the embryo is conceived and collected and from which the embryo is imported into the United States.

Embryo. The initial stages of development of an animal, after collection from the natural mother and while it is capable of being transferred to a recipient dam, but not after it has been transferred to a recipient dam.

Embryo collection unit. Area or areas where the donor dam will be bred to produce embryos for importation into the United States, and where the embryos will be collected, processed, and stored pending shipment to the United States.

Foreign Animal Disease Diagnostic Laboratory. The Foreign Animal Disease Diagnostic Laboratory of the Animal and Plant Health Inspection Service.

Herd of origin. The herd in which the donor dam is kept during the 60 days before the donor dam is required to be housed in an embryo collection unit, in accordance with § 98.17(a) of this subpart.

Import. To bring into the territorial limits of the United States.

Inspector. An employee of the Animal and Plant Health Inspection Service who is authorized to perform the function involved.

Official veterinarian. A full-time salaried veterinarian of the national government of the country of origin or a veterinarian employed by the Animal and Plant Health Inspection Service (APHIS), and designated by APHIS to supervise or conduct procedures required by this subpart, and to certify that requirements of this subpart have been met.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

United States. All of the States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

§ 98.12 General prohibitions.

(a) Cattle embryos may not be imported from countries where rinderpest or foot-and-mouth disease exists except in accordance with this subpart.

(b) Cattle embryos may not be imported into the United States from any country other than the country in which they were conceived and collected.

§ 98.13 Import permit.

(a) Cattle embryos and all test samples required by this subpart may be imported into the United States from countries where foot-and-mouth disease or rinderpest exists only if accompanied by import permits issued by the Animal and Plant Health Inspection Service (APHIS).

(b) An application for the import permits must be submitted to the Import-Export Animals Staff, Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Application forms also may be obtained at this same address. The application for a permit to import embryos will also serve as the application for a permit to import test samples for those embryos; separate applications are not required. The application must include the following information:

(1) The name and address of the exporter;

(2) The name and address of the importer;

(3) The name and address of the place where the donor dam will be bred and where the embryo(s) will be collected;

(4) The species, breed, and number of embryos to be imported;

(5) The purpose of the importation;

(6) The port of embarkation;

(7) The mode of transportation;

(8) The route of travel;

(9) The port of entry in the United States;

(10) The proposed date of arrival in the United States; and

(11) The name and address of the person to whom the embryos will be delivered in the United States.

§ 98.14 Health certificate.

(a) Cattle embryos may be imported into the United States from a country where foot-and-mouth disease or rinderpest exists only if accompanied by a health certificate issued by:

(1) A full-time salaried veterinarian of the national government of the country of origin who is designated as an official veterinarian; or

(2) A full-time salaried veterinarian of the national government of the country of origin who is not designated as an official veterinarian, provided that the health certificate is endorsed by an APHIS veterinarian who is designated as an official veterinarian; or

(3) Any veterinarian authorized by the national government of the country of origin, provided that the health certificate is endorsed by a full-time salaried veterinarian of the national government of the country of origin who is designated as an official veterinarian.

(b) The health certificate must state:

(1) The name and address of the place where the embryos were collected;

(2) The name and address of the vetrinarian who collected the embryos;

(3) The date of embryo collection;

(4) The identification and breed of the donor dam and donor sire;

(5) The number of ampules or straws covered by the health certificate and the identification number or code on each ampule or straw;

(6) The dates, types, and results of all examinations and tests performed on the donor dam and donor sire as a condition for importing the embryos;

(7) The dates and results of all tests performed on unfertilized eggs, nontransferrable embryos, and embryo collection and wash fluids;

(8) The names and addresses of the consignor and consignee;

(9) That the embryos are being imported into the United States in accordance with subpart B of 9 CFR part 98.

(c) If any of the information required by paragraph (b) of this section is provided in code, deciphering information must be attached to the health certificate.

(d) There must be a separate health certificate for each collection of embryos.

§ 98.15 Health requirements.

Cattle embryos may be imported from a country where rinderpest or foot-and-mouth disease exists only if all of the following conditions are met:

(a) The donor dam is determined to be free of communicable diseases based on tests, and examinations, and other requirements, as follows:

(1) During the year before embryo collection, no case of rinderpest, foot-and-mouth disease, contagious bovine pleuropneumonia, Rift Valley fever, vesicular stomatitis, or bovine spongiform encephalopathy occurred in the embryo collection unit or any herd in which the donor dam was present.

(2) During the year before embryo collection, no case of rinderpest, foot-and-mouth disease, contagious bovine pleuropneumonia, Rift Valley fever, vesicular stomatitis, or bovine spongiform encephalopathy occurred within 5 kilometers of the embryo collection unit or any herd in which the donor dam was present.

(3) During the 60 days before embryo collection, the donor dam did not receive a vaccination for either rinderpest or foot-and-mouth disease.

(4) During the 60 days before the donor dam was required to be in the embryo collection unit, in accordance with § 98.17(a) of this subpart, the donor dam remained in the same herd, and no cattle were added to that herd.

(5) On the day of embryo collection, and again not less than 30 days nor more than 120 days afterward, one sample of at least 10 ml of serum was collected from the donor dam, frozen, and sent to the Foreign Animal Disease Diagnostic Laboratory for testing. The donor dam was determined to be free of foot-and-mouth disease based on tests of the pair of serum samples, and, if contagious bovine pleuropneumonia, Rift Valley fever, vesicular stomatitis, or rinderpest exists in the country of origin, the donor dam was determined to be free of these diseases based on additional tests of the serum samples. If the donor dam was in any herd during the year before embryo collection that was not certified free of brucellosis by the national government of the country of origin, the donor dam was determined to be free of brucellosis based on tests of the serum samples. The only official test results will be those provided by the Foreign Animal Disease Diagnostic Laboratory.

(6) If the donor dam was in any herd during the year before embryo collection that was not certified free of tuberculosis by the national government of the country of origin, the donor dam was determined to be free of tuberculosis by an official veterinarian based on an intradermal tuberculin test. The test must have been administered to the donor dam by an official veterinarian not less than 30 days nor more than 120 days after embryo collection, and not less than 60 days after any previously administered intradermal test for tuberculosis.

(7) Not less than 30 days nor more than 120 days after embryo collection, the donor dam was examined by an official veterinarian and found free of clinical evidence of foot-and-mouth disease, rinderpest, contagious bovine pleuropneumonia, Rift Valley fever, vesicular stomatitis, bovine spongiform encephalopathy, brucellosis, and tuberculosis. All signs of any other communicable disease must be listed on the health certificate that accompanies the embryos to the United States.

(8) Between the time the embryos were collected and all examinations and tests required by this subpart were completed, no animals in the embryo collection unit with the donor dam, or in the donor dam's herd of origin, exhibited any clinical evidence of foot-and-mouth disease, rinderpest, contagious bovine pleuropneumonia, Rift Valley fever, vesicular stomatitis, bovine spongiform encephalopathy, brucellosis, or tuberculosis. All signs of any other communicable disease must be listed on the health certificate that accompanies the embryos to the United States.

(b) The donor dam or donor sire is determined to be free of communicable diseases based on other testing or certifications if required by the Administrator. The Administrator may require additional testing or certifications if he or she determines that they are necessary to determine either the donor dam's or the donor sire's freedom from communicable diseases. Circumstances that may result in additional testing or certifications include, but are not limited to:

(1) The existence of communicable diseases of livestock, other than those diseases specifically listed, in the country of origin;

(2) A high prevalence or an increase in the incidence of a communicable disease in the country of origin;

(3) The use of natural breeding, rather than artificial insemination to conceive the embryos;

(4) The use of fresh, rather than frozen semen, for artificial insemination; and

(5) The use of semen collected at a site other than an artificial insemination center approved by the national government of the country of origin.

(c) Embryos produced by any donor dam or sire that dies before being examined and tested as required under this subpart will not be eligible for importation into the United States.

§ 98.16 The embryo collection unit.

Cattle embryos may be imported into the United States from a country where rinderpest or foot-and-mouth disease exists only if they were conceived, collected, processed, and stored prior to importation at an embryo collection unit. The embryo collection unit may be located on the premises where the donor dam's herd of origin is kept, or at any other location, provided that the following requirements are met:

(a) *Animal holding and breeding area(s).* The embryo collection unit must have an area or areas for holding the donor dams and for breeding them (either natural breeding or artificial insemination).

(b) *Embryo collection area.* The embryo collection must have a room or outdoor area for collection of embryos that contains a device or devices for restraining cattle during embryo collection. If a room, the floor, walls, and ceiling must be impervious to moisture and constructed of materials that can withstand repeated cleaning and disinfection. If an outdoor area, the area must have a floor that is impervious to moisture and is constructed of materials that can withstand repeated cleaning and disinfection. If the outdoor area also has walls or a roof, the walls or roof also must be impervious to moisture and be constructed of materials that can

withstand repeated cleaning and disinfection.

(c) *Embryo processing area.* The embryo collection unit must have an enclosed room, which may be mobile, that is used *only* for processing embryos. The walls, floor, and ceiling of the room must be impervious to moisture and constructed of materials that can withstand repeated cleaning and disinfection. The room must contain a work surface for handling the embryos, such as a table or countertop that is impervious to moisture. The room also must contain a microscope with a minimum of 50x magnification, and equipment for freezing the embryos.

(d) *Embryo storage area.* The embryo collection unit must have one lockable area that is used only for storing frozen embryos intended for importation into the United States.

(e) *Area for cleaning and disinfecting or sterilizing equipment.* The embryo collection unit must have an enclosed room used for cleaning and disinfecting or sterilizing equipment used for artificial insemination or for collection, processing, or storage of embryos. The walls, floor, and ceiling of the room must be impervious to moisture and constructed of materials that can withstand repeated cleaning and disinfection.

§ 98.17 Procedures.

(a) *Housing of the donor dam.* (1) Beginning at least 24 hours before a donor dam is bred to produce embryos for importation to the United States, the donor dam must be housed at an embryo collection unit.

(2) The donor dam must remain at the embryo collection unit until the embryos for importation into the United States have been collected.

(3) After collection of embryos, the donor dam must either remain at the embryo collection unit or be returned to the herd of origin and remain there until all examinations and tests required by this subpart have been completed.

(4) During the time the donor dam is in the embryo collection unit, in accordance with paragraphs (a)(1) through (a)(3) of this section, no animals may be in the embryo collection unit with the donor dam unless:

(i) They meet the requirements of § 98.15 of this subpart that are applicable to the donor dam at that time;

(ii) They are part of the donor dam's herd of origin; or

(iii) They are serving as donor sires for the production of embryos to be imported into the United States.

(b) *Supervision.* (1) All procedures associated with production of embryos for importation to the United States, including artificial insemination; natural breeding; collection of test samples; collecting, processing, and storing the embryos; and cleaning and disinfection, must be performed under the supervision of an official veterinarian.

(2) Officials from the Animal and Plant Health Inspection Service must be given access to all areas of the embryo collection unit and the donor dam's herd of origin during the time the donor dam is housed there, in accordance with paragraphs (a)(1) through (a)(3) of this section.

(c) *Personnel.* All personnel must put on clean outer garments, including disinfected boots, and must scrub their hands with soap and water each time they enter the embryo collection unit and before entering any room or area listed in § 98.16 of this subpart.

(d) *Cleaning, disinfection, and sterilization.* (1) All equipment that comes in contact with embryos or with media used for their collection or processing must be sterile. Equipment used for embryos from one donor dam, or with associated media, may not be used for embryos or associated media from any other donor dam until it has been resterilized.

(2) All equipment that comes in contact with a donor dam's secretions or excretions must be sterile and may not be used with any other donor dam until it has been resterilized.

(3) Containers used for storing embryos or for shipping embryos to the United States must be examined and found free of any organic matter and then disinfected before the ampules or straws are placed inside.

(4) The floor, ceiling, and walls of any room or outdoor area used for embryo collection, and the restraining device(s) used for this procedure, must be cleaned with soap and water and disinfected before the room or area is used to collect embryos intended for importation to the United States, and at least daily while in use for this purpose.

(5) The room and work surface used for processing embryos must be kept free of insects, rodents, trash, manure, and other animal matter and must be cleaned with soap and water and disinfected before the room is used for embryos intended for importation to the United States, and the work surface must be cleaned and disinfected at least daily while in use for this purpose.

(6) The area of the embryo collection unit used to store embryos intended for importation to the United States must be kept free of insects, rodents, trash, manure, and other animal matter and must be cleaned with soap and water and disinfected before being used to store the embryos.

(7) The room used for cleaning and disinfecting or sterilizing equipment used for artificial insemination or for collection, processing, or storage of embryos must be kept free of insects, rodents, trash, manure, and other animal matter and must be cleaned with soap and water and disinfected before being used to prepare equipment for donors of embryos intended for importation into the United States, and at least daily while in use for this purpose.

(e) *Media; cryogenic agent.* (1) All media containing products of animal origin and used for embryo collection and processing must be from sources in the United States or Canada.

(2) The liquid nitrogen used to freeze embryos may not have been used previously for any other products of animal origin.

(f) *Collection and processing of embryos.* (1) If embryos are collected in an outdoor area, they must be collected by using a closed collection system so that the embryos are not exposed to open air until they are inside the embryo processing room.

(2) Embryos from donors that do not meet the requirements of § 98.15 of this subpart that are applicable at the time of embryo collection may not be in the processing room at the same time as embryos intended for importation into the United States.

(3) Each embryo must be washed at least 10 times. Each wash must be accomplished by transferring the embryo into an aliquot of fresh medium that is 100 times the volume of the embryo plus any fluid transferred from the previous wash. No more than 10 embryos from the same flush may be washed together. A sterile micropipette must be used for each transfer, and the embryos must be well agitated throughout the entire volume of the wash before the next transfer. Embryos from different donors may not be washed together.

(4) After the last wash, each embryo must be microscopically examined over its entire surface at not less than 50× magnification. An embryo may not be imported into the United States unless its zona pellucida is found to be intact and free from any adherent material.

(5) After washing and examination of the zona pellucida, embryos must be individually packaged in sterile ampules or straws and frozen in liquid nitrogen. The donor dam's and sire's identifications and breed, the date of embryo collection, the name and address of the place where the embryos were collected, and an identification number for the straw or ampule must be recorded with indelible markings on

each ampule or straw. If any of this information is provided in code, deciphering information must be attached to the health certificate for the embryos.

(6) The Administrator may require additional measures to be taken in processing embryos after collection (for example, adding trypsin to the washes) if he or she determines that such measures are necessary to ensure the embryos freedom from infectious agents that may cause communicable diseases. Circumstances that may result in such additional measures being required include, but are not limited to:

(i) The existence of communicable diseases of livestock, other than those diseases specifically listed, in the country of origin; and

(ii) A high prevalence or an increase in the incidence of a communicable disease in the country of origin.

(g) *Preparation of test samples; tests.* (1) All nontransferrable embryos and unfertilized eggs from each collection of embryos intended for importation into the United States must be pooled, frozen in liquid nitrogen, and sent to the Foreign Animal Disease Diagnostic Laboratory for testing. The collection and last two wash fluids from the collection of embryos must be frozen and sent to the Foreign Animal Disease Diagnostic Laboratory for testing. Samples from different collections may not be mixed.

(2) All samples collected in accordance with paragraph (g)(1) of this section must be tested and found negative for viral contamination. The wash fluids also must be found negative for bacterial contamination. The only official results for these tests will be those provided by the Foreign Animal Disease Diagnostic Laboratory.

(h) *Storage of embryos.* (1) Frozen embryos to be imported into the United States must be stored in a locked area or must remain in the custody of an official veterinarian until they are sealed in accordance with paragraph (h)(2) of this section and released for shipment to the United States in accordance with § 98.18(a) of this subpart; except that, the embryos may be moved to a U.S. Department of Agriculture-operated animal import center in either New York, Hawaii, or Florida, under seal and in the custody of that individual, and remain in quarantine there until all tests and examinations required by this subpart have been completed and all test results have been provided by the Foreign Animal Disease Diagnostic Laboratory.

(2) Containers in which embryos will be imported into the United States must be sealed by an official veterinarian with the official seal of the country of origin or, if the official veterinarian is an employee of the Animal and Plant Health Inspection Service, with an official seal of the United States Department of Agriculture. The seal number must be recorded on the health certificate that accompanies the embryos to the United States.

§ 98.18 Shipment of embryos to the United States.

(a) *Release from the embryo collection unit.* Except as provided in § 98.17(h)(1) of this subpart, embryos may not be moved from the embryo collection unit until all tests and examinations required by this subpart have been completed and the Import-Export Animals Staff, Veterinary Services, APHIS, has received written notification of all test results from the Foreign Animal Disease Diagnostic Laboratory.

(b) *Route.* The sealed shipping containers must be routed directly to the U.S. port of entry designated on the import permit.

(c) *Ports of entry.* The embryos may be imported into the United States only through a port of entry listed in § 92.203(a) of this chapter.

(d) *Date of arrival in the United States.* Embryos that arrive at the port of entry more than 14 days after the proposed date of arrival stated in the import permit will not be eligible for importation into the United States.

§ 98.19 Arrival and inspection at the port of entry.

(a) Upon arrival at the port of entry, the importer or the importer's agent must present an inspector at the port with the original health certificate and the original import permit for the embryos.

(b) The shipping container and all straws or ampules containing embryos must be made available to an inspector at the port of entry for inspection, and may not be removed from the port of entry until an inspector determines that the embryos are eligible for entry in accordance with this subpart and releases them.

§ 98.20 Embryos refused entry.

If any embryos are determined to be ineligible for importation into the United States upon arrival at the port of entry, the importer must remove the embryos from the United States within 30 days, or the embryos will be destroyed.

Done in Washington, DC, this 24th day of October 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-26083 Filed 10-28-91; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF STATE

22 CFR Parts 22 and 51

[Public Notice 1515]

Schedule of Fees for Consular Services, Department of State and Foreign Service of the United States

AGENCY: Bureau of Consular Affairs, State Department.

ACTION: Final rule.

SUMMARY: This final rule amends §§ 22.1 and 51.61 of title 22, Code of Federal Regulations by making certain changes in the Schedule of Fees. The final rule increases some consular fees, removes some no-fee items from the schedule of fees, renumbers a few items, and adds a new fee item for return check processing and a new fee item for processing applications for the adversely affected program established under the Immigration Act of 1990. These changes are made to reflect the cost of providing those services and to simplify the format of the Schedule of Fees. Section 51.61 is amended to bring into conformity the passport and execution fees with the Schedule of Consular Fees found in 22 CFR part 22.

DATES: The effective date for these changes is November 1, 1991.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Office of Executive Director, Bureau of Consular Affairs, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Ted Gong, Office of Executive Director, Bureau of Consular Affairs, (202) 647-1148.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of State is authorized under E.O. 10718 of June 27, 1957 to prescribe rates of fees to be charged for official services and to designate what is to be regarded as official services, besides what are expressly declared by law. Under this authority, the Secretary has determined that a number of fees for consular services performed overseas, as well as in the United States, should be changed to better reflect the cost of providing those services, within the

policy guidelines set by OMB Circular No. A–25. That policy states that services which directly benefit individuals, organizations or groups should be paid for by the users rather than the taxpayers. Services performed for the primary benefit of the general public or the U.S. Government are to be supported by tax revenues. The changes set forth in this final rule reflect this policy.

This final rule was submitted as a proposal and published in the **Federal Register** on July 31, 1991. When the fees were proposed to amend part 22, it was pointed out that part 51 also had to be amended to reflect the changes. Aside from this adjustment and minor revisions to indicate updated form numbers, the following final rule is essentially the same as the proposals except for the addition of an item for collecting fees for the newly established Adversely Affected Program and an adjustment of the fee for taking depositions. The single major change in this final rule from the proposal is to reduce the final notarial fee from the proposed $25 to $10. During the comment period the Department received a total of 137 comments from the general public and 22 opinions from consular officers working overseas.

Passport Fees

The letters from the general public focused on the proposed passport fees. Three commentators thought the increase was appropriate as a means to discourage foreign travel and thereby improve domestic tourism. Others felt the increase was justified if there were improvements in the quality of the service provided by the passport agencies and overseas consular operations. The majority criticized the size of the increase with about half the critics suggesting a discount be provided for senior citizens. Several commentators suggested a discount be established for students.

After carefully considering the public comments, the Department has decided to confirm the proposed passport fee increases. A smaller increase would be inconsistent with the recommendation of the fee consultants. Efforts to establish a discounted fee for senior citizens or students are impossible without discriminating against some other age group. On the other hand, a lower fee for passports issued to minors was justified because the significant changes in the physical appearance of children necessitated a more frequent updating of the passport photograph. As a consequence, passports issued to minors are valid for five years compared to adult passports which are valid for ten years, and fees were set to consider the different validity periods. Accordingly, the Department will establish the fees as set forth below and as it was previously proposed.

Instant Photo Service

The Department followed the recommendation of the consultants to propose eliminating this little-used service as a means to simplify the Schedule of Fees. However, during the public comment period, several overseas posts indicated they wish to retain the ability to use the service item as a convenience to Americans overseas, particularly in emergency situations. To preserve the option to posts that use it, the Department is retaining the fee item but is adjusting the cost from its current $7.00 to $15.00 as recommended by the consultants.

Notarial Services and Authentications

The proposed rule sought to increase the current fee from $4.00 to $25.00. During the public comment period, commentators criticized the size of the increase, pointing out a number of humanitarian and commercial reasons why the fee increase should be lowered. The Department was persuaded by the critical comments and is establishing the fee at $10.00.

Revalidation or Transfer of Nonimmigrant Visa

One commentator expressed concern that the proposed elimination of an item regarding revalidating nonimmigrant visas, would result in the curtailment of visa reissuances in the United States. It appears that the commentator confused "revalidation" with "reissuance." Visa categories A, G, E, H, I and L may be reissued in the United States under certain conditions. The proposed rule will have no effect on the reissuance of visas in the United States. The term "revalidation," however, applies to the automatic extension of a validity of expired nonimmigrant visas at ports of entry pursuant to 22 CFR 41.112(d) and the transfer of a visa from one travel document to another. Both actions are no-fee services. Consequently, the fee item is outdated and needs to be removed from the fee schedule.

Additional Item: Services Related to Taking Evidence

The consultants concluded the hourly cost for American officers to provide these services to be $140 and for staff members to be $65. The consultants recommended the fees be adjusted to these amounts. This recommendation was excluded from the proposed fees published for public comment because an alternative higher fee was being evaluated. However, the completion of that continuing evaluation notwithstanding, the Department believes the fee should be adjusted with the rest of the items in the Schedule of Fees to maintain consistency. During the comment period, another fee item under Examination Services proposed the hourly American officer fee be adjusted to $140. This proposal, setting the hourly American fee at the same rate as the instant item, did not cause any comment. Therefore, to maintain consistency and to adjust the rate to the amount advised by the consultants, we are revising the fee item as stated to be effective with the rest of changes to the Schedule of Fees on November 1, 1991.

Additional Item: Adversely Affected Program

Passage of the Immigration Act of 1990 established a processing fee for applicants of the adversely affected program. This program and a $25 fee associated with it were discussed in final rules published in the **Federal Register** of September 9, 1991.

List of Subjects

22 CFR Part 22

Passports and visas, Schedule of consular fees.

22 CFR Part 51

Passports.

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

Accordingly, part 22 and part 51 are amended as follows.

PART 22—[AMENDED]

1. The authority citation for part 22 continues to read as follows:

Authority: Sections 3, 4, 63 Stat. 111, as amended; 22 U.S.C. 211a; 214, 2651, 2658, 3921, 4219; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632; E.O. 11295, 31 FR 10603; 3 CFR, 1954–1958 Comp. p. 507.

2. Section 22.1 is revised to read as follows:

§ 22.1 Schedule of fees

Item No.	Fee
Passport and Citizenship Services	
1. Execution of application for passport	$10.00
2. Examination of passport application executed before a foreign official	10.00
3. Issuance of 10 year validity passport (22 U.S.C. 214)	55.00
4. Issuance of a 5 year validity passport (22 U.S.C. 214)	30.00
5. Execution of application for and issuance of passport:	
(a) To officers or employees of the United States proceeding abroad or returning to the United States in the discharge of their official duties, or members of their immediate families (22 U.S.C. 214)	No fee.
(b) To American seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214)	Do.
(c) To widows, children, parents, brothers, or sisters of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214)	Do.
(d) To employees of the American National Red Cross proceeding abroad as a member of the Armed Forces of the United States (10 U.S.C. 2602(c))	Do.
(e) Peace Corps Volunteers and Volunteer Leaders, who are deemed to be employees of the United States for purposes of exemption from passport fees (22 U.S.C. 2504(a))	Do.
6. Amendment to passport:	
(a) To show current or new information	Do.
(b) To correct administrative error	Do.
(c) To extend time limitation	Do.
7. Execution of application for registration	Do.
8. Execution of affidavit in regard to American birth in connection with application for passport or citizenship determination	Do.
9. Documents relating to births, marriages or deaths of American citizens abroad where reported to a Foreign Service post:	
(a) Registration of a birth of American citizen including furnishing one copy of Form FS–240 "Report of Birth Abroad of a Citizen of the United States of America"	10.00
(b) Authentication of original documents of marriage, per copy	36.00
(c) "Report of Death of an American Citizen" and sending one copy of each to legal representative and to closest known relative or relatives	No fee.
[Form DS–1350 "Certification of report of Birth" and certified copies of documents relating to births, marriages, and deaths of American citizens abroad reported to a foreign service post may be obtained from Passport Services, Correspondence Branch, Department of State, Washington, D.C. 20522–1750, $10.00 per copy]	10.00
10. Documents from passport files and related records (except as specified in Item 9):	
(a) For file search	15.00
(b) For duplicating by photocopy or other such means, per each copy of each page	.25
(c) For certifying of a true copy	5.00
(d) For certifying by letter under official seal a statement or extract from passport files or a statement that no record of a passport file can be located (plus $15.00 search charge of 10(a))	5.00
11. Any service described in Item 10 when:	
(a) Required for official use by an agency of the Federal Government or any of the States or their subdivisions or of the District of Columbia, or of any of the territories and possessions of the United States	No fee.
(b) Performed in response to a subpoena or other order of a court	Do.
(However, fees are chargeable when the service is for the benefit of a party in interest and a court order or subpoena is issued in an individual's behalf.)	
(c) Performed in providing to a party in interest, a copy of the transcript of a hearing held before a panel, board, or other authority of the Department	Do.
12. Granting an exception under 22 CFR 53.2(h) of Travel Control Regulations	100.00
13. Instant Photo Service, where offered by a Foreign Service post for each pair of identical photographs	15.00
(Item Nos. 14 through 19 vacant.)	
Visa Services for Aliens	
20. Furnishing and verification of application and issuance of immigrant visa, including duplicate copy [112–IV APPL]	170.00
21. Issuance of each immigrant visa [113–IV Issuance], [114–R IV ISS], [115–211 WAIV/ISS]	30.00
22. Furnishing and verification of application and issuance of nonimmigrant visa. (Fees prescribed in Appendices B, C, and E, Part IV, FAM, Vol. 9 of Department of State, amended from time to time)	Reciprocal.
23. Furnishing and verification of application and issuance of nonimmigrant visa to:	
(a) An alien proceeding solely in transit to and from the headquarters district of the United Nations under the provisions of section 11 of the Agreement between the United Nations and the United States of America regarding the headquarters of the United Nations (61 Stat. 756)	No fee.
(b) An official representative of a foreign government, or an international or regional organization of which the U.S. is a member	Do.
(c) An alien participating in a U.S. Government program	Do.
24. Visa or supplemental visa of alien crew list:	
(If Item 93 is applicable, only one surcharge shall be applied per group served on the same visit):	
(a) Up to 40 crew members	40.00
(b) 41 to 100 crew members	100.00
(c) 101 to 200 crew members	210.00
(d) Over 200 crew members	280.00
25. Processing of Application for Adversely Affected Program	25.00
(Item Nos. 26 through 29 vacant.)	
Services Relating to Vessels and Seamen	
30. Noting marine protest, when required by a master of a foreign or an undocumented vessel	18.00
31. Extending marine protest, when required by a master of a foreign or an undocumented vessel	104.00

Item No.	Fee
32. Protest of a master against charterers or freighters, when required by a master or a foreign or an undocumented vessel	16.00
33. Shipment or discharge of seamen on undocumented vessel, each seaman (If item 93 is applicable, only one surcharge shall be applied per group served on the same visit)	10.00
34. Recording of bill of sale of vessel purchased abroad, taking of application for provisional certificate or registration or certificate of American ownership, and investigation	80.00
35. Issuance of provisional certificate of registry or certificate of American ownership	60.00
36. Services under this tariff (unless designated "no exceptions") when performed for American vessels or for American seamen (22 U.S.C. 1186)	No fee.
(Item Nos. 37 through 44 vacant.)	
Notarial Services and Authentications	
45. Notarial services:	
(a) Administering an oath and certificate thereof	10.00
(b) Taking the acknowledgement of the execution of a document, and certificate thereof	10.00
(c) Certifying under official seal that a copy or extract made from an official or a private document is a true copy. For certifying each copy of each page	10.00
(d) Certifying to official character of a foreign notary or other official (i.e., authenticating a document)	10.00
(e) For affidavit of petitioner or his agent on documents or evidence to be presented to the Federal Government	10.00
(f) Authenticating a Federal, State or Territorial seal, or certifying to the official status of an officer of the United States Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the United States Government, or any document submitted to the Department for that purpose	10.00
46. Noting of a negotiable instrument for want of acceptance or payment, certifying to protest and giving notice to issuer and endorsers when requested to do so	20.00
(Item Nos. 47 through 57 vacant.)	
58 Services under the heading, "Notarial Services and Authentications" when rendered:	
(a) In connection with the execution of forms or documents (except those related to applications for passports or immigrant visas) required by and to be presented to any department or agency of the Federal Government	No fee.
(b) In connection with the assignment and transfer of United States Bonds or other Federal financial obligations or execution of powers of attorney therefor to collect interest thereon	Do.
(c) In connection with the execution of forms or documents required by and to be presented to the States and their subdivisions, the District of Columbia, or any of the territories or possessions of the United States	Do.
(d) In the execution of tax returns for filing with the Federal or State Governments or political subdivisions thereof	Do.
(e) To claimants and beneficiaries and their witnesses, in connection with Federal, State and municipal allotment, pension, retirement, insurance, medical compensation, or like benefits	Do.
(f) To American citizens, while outside the United States, in preparation of ballots to be used in any primary, general or other public elections in the United States or in territories under their jurisdiction	Do.
(g) For official non-commercial use by a foreign government or by an international agency of which the Government of the United States is a member	Do.
(h) To an official of a foreign government in circumstance where furnishing the service is an appropriate or reciprocal courtesy	Do.
(i) To U.S. Government personnel and Peace Corps volunteers or their dependents officially stationed or traveling in a foreign country	Do.
59. Affidavit on preparation and packing of remains	Do.
60. Consular mortuary certificate	Do.
(Item Nos. 61 through 65 vacant.)	
66. Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of Federal court on behalf of an indigent party as contemplated by 18 U.S.C. 3495	Do.
67. Providing seal and certificate for return of letters rogatory executed by foreign officials	32.00
(Item No. 68 vacant.)	
Services Relating to the Taking of Evidence	
69. In taking depositions or executing commissions to take testimony:	
(a) For the services of a diplomatic or consular officer, per hour or fraction thereof	140.00
(b) For the services, if required, of a staff member of the Foreign Service as interpreter, stenographer or typist per hour or fraction thereof	65.00
[Services of (a) and (b) above are exempt from charges of Item 93, but not of Item 94.]	
Decedents and Decedents' Estates	
70. Taking into possession under 22 U.S.C. 1175 the personal estate of any citizen who shall die within the limits of a consular district, and arranging for inventory, sale and final disposition thereof according to law	No fee.
71. Services as described under Item No. 70 above when performed in the case of a deceased employee of the United States	Do.
72. For placing or removing official seal on estates of decedents; for disbursing funds supplied by relatives and others; for forwarding to legal representative or other authorized person of securities and other instruments not negotiated (or not negotiable) by the consular officer, or evidence of bank deposits of the decedent; or for releasing on the spot against memorandum receipt and without occasion either for safekeeping on official accountability or for consular inventory and appraisal, to the legal representative or other authorized person in the country, or personal property taken into nominal possession for the explicit purpose of transfer of custody	Do.
73. Arrangements for shipping or other disposition of remains	Do.
(Item No. 74 vacant.)	
Copying and Recording	
75. For typing a copy of a document or extract of a document. (For each 200 words or part thereof)	6.00
76. For photocopying or otherwise duplicating a document, per copy of each page	.25

Item No.	Fee
(This fee does not apply to such customary activities as issuance of copies of records: (1) From supplies kept for distribution, such as press releases and information leaflets; (2) as part of normal and generally reciprocal services performed by the post's library or the library of the Department at the request of similar agencies or institutions; or (3) in lieu of or as exclosures to letters with the purpose of saving costs in preparing mail.)	
(Item Nos. 77 through 81 vacant.)	
Examination Services	
82. Supervising or proctoring an examination at the request of an agency or instrumentality of the Federal or a State Government by a consular or other officer, including completion of a certificate without seal. (For each hour or fraction thereof, unless the cost is reimbursable to the Department of State by an agency or instrumentality of the Federal or a State government; (Service exempt from charges of Item 93, but not of Item 94)	140.00
Exemption for Federal Agencies and Corporations	
83. Any and all services (unless above designated "No exceptions") performed for the official use of the Government of the United States or of any corporation in which the Federal Government of the United States or its representative shall own the entire outstanding capital stock	No fee.
Other Consular Services	
84. Preparing and sending Interested Party Messages for the primary benefit of nongovernment individuals, organizations, or groups:	
(a) From a Foreign Service post to the Department of State	30.00
(b) From Department of State to a Foreign Service post	30.00
(c) From a Foreign Service post to another Foreign Service post	30.00
85. Making an Interested Party toll telephone call (See bracketed instruction on collections under Item 94)	Cost.
(Item Nos. 86 through 90 vacant.)	
91. Collection of fees by a Foreign Service post for services performed by Department of State offices within the United States under this Schedule of Fees; services performed under 22 CFR part 614 (Freedom of Information Services)	No fee.
92. Setting up and maintaining a trust account for one year or less to transfer funds to, or in behalf of, an American in need in a foreign country	15.00
Surcharges	
93. Surcharges for services rendered away from office or after duty hours in the United States or in a foreign country are required for all "Fee" services listed above when performed at the request of an interested party unless specifically exempted, but are not required for "No Fee" services nor for instances of common disaster (i.e., shipwrecks, air crashes, etc.) or for evacuations. However, whether employees can be made available to perform duties away from office or after hours will be determined by the Consul General, the supervising consular officer, or the Passport Agency Director after considering workload priorities for the staff concerned. The following surcharges, when required, are added to regular fees:	
(1) American employee	35.00
(2) Foreign Service National employee	20.00
Transportation and Other Expenses	
94. Transportation and other expenses necessarily being incurred by officer or other employees of U.S. passport Agencies or American Consular Posts in foreign countries shall be collected on an estimated cost basis from the persons requesting the performance of "Fee" services listed above unless specifically exempted. Transportation and other expenses may also be collected for "No Fee" or any other consular services when the Consul General, the supervising consular officer, or the Passport Agency Director concerned determines that collections for these purposes are appropriate and necessary. For example: the service of assisting in the recovery of lost or stolen vehicles, boats or planes may call for coverage of such expenses; or special estate settlement, handling or disposition services requested by the next of kin or legal representative of the decedent may require unusual travel or other special expenses	Cost.
[Collections under Item 85 and Item 94 shall not be considered as part of the official fees but shall be recorded as refunds to the post allotment and accounted for as such. If there is uncertainty as to the extent or timing of expenses, a trust account per Item 92 above, may be established with payment(s) made as performance of the service progresses.]	
95. Return check processing fee	25.00

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: Sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 2, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507.

2. Section 51.61 is revised to read as follows:

§ 51.61 Statutory fees.

(a) Passport fee. The fee for a U.S. passport is:

(1) $55.00 when the passport issued will be valid or potentially valid for a period of 10 years from the date of issue; or

(2) $30.00 when the passport issued will be valid or potentially valid for a period of 5 years from the date of issue; and

(3) The passport fee shall be paid by all applicants except as provided by section 51.63(a).

(b) Execution fee. Except as provided in section 51.63(b), the fee for execution of an application for a U.S. passport is $10.00, which shall be remitted to the U.S. Treasury when an application is executed before a Federal official, but which may be collected and retained by any State official before whom an application is executed, or which may be transferred to the United States Postal Service for each application accepted by that Service. The execution fee shall be paid only when an application must be executed under oath or affirmation as prescribed by § 51.21(a).

Dated: October 17, 1991.

Elizabeth M. Tamposi,

Assistant Secretary, Consular Affairs.

[FR Doc. 91–26079 Filed 10–29–91; 8:45 am]

BILLING CODE 4710–06–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2603

Freedom of Information Act; Exemption (4)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim final rule with request for comments.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") is amending its Freedom of Information Act ("FOIA") regulations to include designation and notification procedures for records containing information that, pursuant to exemption (4), the PBGC may not be required to make available to the public. These supplementary provisions assure that submitters of trade secrets and privileged or confidential business information have an opportunity to explain to the PBGC why the information should not be made available in response to a request under the FOIA. They further elaborate agency policy and codify practices developed to protect such information from disclosure, in accordance with the procedural structure established by Executive Order 12600.

DATES: Effective November 29, 1991; comments must be received on or before November 29, 1991. This interim final regulation shall cease to be in effect on April 17, 1992; the PBGC will consider and address any comments submitted and, on or before that date, will issue a superseding final regulation incorporating any appropriate modifications adopted in response to those comments.

ADDRESSES: Address comments to the Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 7100, at the above address, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Judith Neibrief, Attorney, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850, or E. William FitzGerald, PBGC Disclosure Officer, Communication and Public Affairs Department (Code 38000), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8839 (202–778–8859 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001 *et seq.* As a Government corporation, the PBGC is subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, which, among other things, establishes requirements for making agency records available to the public. Part 2603 of the PBGC's regulations (29 CFR part 2603), Examination and Copying of Pension Benefit Guaranty Corporation Records, implements the FOIA and the agency's policy to disseminate information to the public and, insofar as is compatible with the discharge of its responsibilities and consistent with law, to disclose information in its records upon request to members of the public.

These regulations set forth, in § 2603.8, the PBGC's policy of disclosure and, in §§ 2603.15 through 2603.23, restrictions on the disclosure of various records. The restrictions implement paragraphs (1) through (9) of section 552(b), which specify matters to which the FOIA does not apply. (Paragraphs (1) through (9) of section 552(b) are referred to, here and in the regulations, as exemptions (1) through (9), in that order.)

Where requests involve records to which access may be refused under an FOIA exemption and § 2603.15 of the regulations does not prohibit making the information available, the PBGC's policy is to disclose information, but only to the extent that an authorized agency officer determines disclosure will further the public interest and will not impede the discharge of any PBGC function. Under § 2603.16(b) of the regulations, the factors that must be considered in making such a determination include the public interest in protecting citizens against the dissemination of information concerning them which is privileged or has been submitted by them on a confidential basis and in preventing the disclosure of information which would handicap, obstruct, or jeopardize effective performance of the PBGC's functions.

Interim Final Rule

The regulations for particular FOIA exemptions include § 2603.18, which addresses exemption (4): Matters that are "trade secrets and commercial or financial information obtained from a person and privileged or confidential * * *" Insofar as denial of access is not mandatory under the Trade Secrets Act [1] or other restrictions set forth in § 2603.15, paragraph (a) of § 2603.18 requires that, in applying the policy expessed in §§ 2603.8 and 2603.16, there be a balancing of the right of the public to know how the Government operates against the Government's need to keep information in confidence and the right of a person from which information was obtained to have privileges and confidences respected. Paragraphs (b) through (e) provide additional guidance on the scope of exemption (4) and its implementation by the PBGC.

This rule expands the guidance provided in § 2603.18 of the regulations. In new paragraph (f), the PBGC further explains the considerations that pertain to information protected by exemption (4) and describes the practices it employs when requests for records may involve such information. In particular, the amended regulations specify procedures by which persons and entities can assert that they are "submitter[s]" of "confidential commercial information" (as now defined in § 2603.2(d) and (e) of the regulations) and can object to PBGC disclosure of arguably protected information in response to an FOIA request (§ 2603.18(f) (2) and (3), respectively).

The PBGC's practices in this area have evolved over time. In 1982, the Office of Information and Privacy of the U.S. Department of Justice ("DOJ"), which has government-wide FOIA implementation responsibilities (see section 552(e)), issued guidance to all federal agencies in possession of information submitted by business entities (see FOIA Update, June 1982, at 3). DOJ's objective was to assist agencies in exercising their responsibility to protect sensitive business information from disclosure pursuant to exemption (4). The underlying concern in this area has been ensuring the unimpeded flow from the private sector of such information, which is vital to effective performance of the Government's administrative functions, as well as ensuring that submitters' objections have been considered at the administrative level if the agency is sued to enjoin the disclosure of information (see *Chrysler*

[1] See § 2603.15(a) of the regulations ("[p]ursuant to the provisions of 18 U.S.C. 1905, every [PBGC] officer and employee is prohibited from * * * making known in any manner or to any extent not authorized by law * * * information concern[ing] or relat[ing] to trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association").

Corp. v. *Brown*, 441 U.S. 281 (1979), in which the Supreme Court held that submitters of business information may sue under the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, in so-called "reverse" FOIA lawsuits, to enjoin disclosure of their information in response to FOIA requests).

The PBGC adopted DOJ's guidance as a matter of policy. The agency previously had instituted contracting procedures under which offerors responding to its requests for proposals mark confidential data in their submissions. Since 1982 it has assured that whenever the agency may be required to release arguably protected information, the submitter first has an opportunity to explain why disclosure could cause substantial competitive harm. The PBGC subsequently reviewed its practices for conformity with the procedures mandated by Executive Order 12600 (52 FR 23781, June 25, 1987). It now is codifying its practices by amending Part 2603 to specify designation and notification procedures that assure informed consideration of requests for information that arguably is protected from disclosure under exemption (4).

Based on its experience in implementing exemption (4), the PBGC has concluded that the provisions of this rule accommodate the interests of both those submitting and those requesting material in agency records. The procedures it is adopting provide a structure that is sufficiently flexible to enable the agency to continue to resolve many issues informally. For example, when it notifies submitters of their opportunity to object to disclosure, the PBGC frequently finds that, in discussing the scope of a previous designation, the information for which confidentiality is asserted may be reduced, or even eliminated, narrowing the issues to be addressed in any written statement opposing disclosure. Similarly, exemption (4) concerns often apply to only some of the information requested, and when the PBGC releases other portions of its records, requesters generally have been willing to permit additional time for agency consideration of objections to disclosure of the remaining material.

In this regard, the PBGC notes that, in view of the time limit provisions of the FOIA (see section 552(a)(6)) and its regulations (see §§ 2603.45 through 2603.47), the provisions of this rule do not assure a minimum number of days (but do provide for reasonable time) for objecting to disclosure or before disclosure after a decision to grant a request. To the extent permitted by law, the agency intends to provide sufficient time, under the circumstances, to respond to its notifications.

Finally, the PBGC notes that paragraph (f)(1) of § 2603.18 requires notification (unless paragraph (f)(4) applies) whenever the PBGC has reason to believe that the disclosure of requested information could reasonably be expected to cause substantial competitive harm. Nevertheless, the PBGC expects that, in the future, persons and entities which believe they are submitting confidential commercial information will assert the applicability of exemption (4) by designating portions of their submissions in accordance with paragraph (f)(2).

The amendments in this rule further elaborate agency policy and practices for processing certain records and requests (5 U.S.C. 553(b)(A)). However, the PBGC is providing an opportunity for interested members of the public to comment on its designation and notification procedures for implementing exemption (4) of the FOIA, and it has decided to issue these amendments as an interim final rule.

E.O. 12291

The PBGC has determined that this is not a "major rule" for purposes of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; create a major increase in costs for consumers, individual industries, or geographic regions; or have 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.

List of Subjects in 29 CFR Part 2603

Freedom of information.

In consideration of the foregoing, the PBGC is amending 29 CFR part 2603 as follows:

PART 2603—EXAMINATION AND COPYING OF PENSION BENEFIT GUARANTY CORPORATION RECORDS

1. The authority citation for part 2603 is revised to read as follows:

Authority: 5 U.S.C. 552; 29 U.S.C. 1302(b)(3); E.O 12600, 52 FR 23781.

2. Section 2603.2 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 2603.2 Definitions.

* * * * *

(d) *Confidential commercial information* means records provided to the Corporation by a submitter that arguably contain material exempt from release under exemption (4), 5 U.S.C. 552(b(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(e) *Submitter* means any person or entity that provides confidential commercial information to the Corporation. The term *submitter* includes, among others, corporations, state governments, and foreign governments.

3. Section 2603.18 is amended by adding a new paragraph (f) to read as follows:

§ 2603.18 Trade secrets and privileged or confidential information.

* * * * *

(f) For the Corporation to discharge its functions effectively, it must receive submissions from outside the Government, and these submissions often contain commercially valuable information. In order to maintain the flow of information to the Corporation and to assure well-informed consideration of requests for records involving material that arguably is protected from disclosure under exemption (4), the Corporation's policy has been to elicit the views of those providing such material as to its sensitivity. This paragraph of the regulations codifies the practices that the Corporation has developed to achieve these objectives when it must determine whether and to what extent access to records should be denied under exemption (4).

(1) Except as provided in paragraph (f)(4) and to the extent permitted by law, if the Corporation decides it may be required to disclose a record that contains information which has been designated in good faith in accordance with paragraph (f)(2) or a record that the Corporation has reason to believe contains information the disclosure of which could reasonably be expected to cause substantial competitive harm, the Corporation will, unless paragraph (f)(4) applies:

(i) Promptly notify the person or entity that submitted the information and carefully consider written objections that are submitted in response, in accordance with paragraph (f)(3)(i), before determining to grant a request or appeal pursuant to § 2603.37(a) or § 2603.41(a) (whichever is applicable);

(ii) Follow the procedure in § 2603.37(b)(2) or § 2603.41(c)(2) (whichever is applicable) in making any such information available to a requester; and

(iii) Promptly notify the person or entity that submitted the information if a

requester brings suit seeking to compel disclosure.

(2) To assert that exemption (4) applies to information provided to the Corporation, a person or entity shall, at the time of submission or by a reasonable time thereafter, claim to be a submitter of confidential business information by designating, with appropriate markings, the portion(s) of the submission as to which such assertion is made. Any designation under this subparagraph will expire 10 years after the date of submission unless a longer designation period is requested and reasonable justification is provided therefor.

(3) (i) A notification required by paragraph (f)(1)(i) shall describe the requested information that may be disclosed (or provide a copy thereof) and shall afford the submitter a reasonable period of time thereafter (within the limitations set forth in §§ 2603.45 through 2603.47, as applicable) to provide a written statement objecting to disclosure. (The Corporation's notification may be oral or written; if oral, it will be confirmed in writing.) Such a statement shall specify all grounds relied upon for opposing disclosure of any portion(s) of the information pursuant to an exemption set forth in 5 U.S.C. 552(b) and, with respect to exemption (4), demonstrate why the submitter contends that information is a trade secret or is commercial or financial information that is privileged or confidential. Whenever possible, a claim of confidentiality should be supported by a statement or certification of an officer or authorized representative of the submitter. (Information provided pursuant to this clause may itself be subject to disclosure under 5 U.S.C. 552.)

(ii) When a submitter is notified pursuant to this paragraph, the Corporation shall notify the requester that the submitter is being afforded an opportunity to object to disclosure.

(4) Paragraph (f)(1) does not require notification if:

(i) Access to the information is denied;

(ii) The information has been published or officially made available to the public;

(iii) Disclosure of the information is required by law other than 5 U.S.C. 552; or

(iv) A designation described in paragraph (f)(2) appears obviously frivolous, except that in such a case the Corporation will provide a written notice of a determination to grant access to the information within a reasonable number of days prior to the date, specified therein, on which the information will be made available to the requester.

§ 2603.37 [Amended]

4. Paragraph (a) of § 2603.37 is amended by adding ", 2603.18," after "2603.16".

5. Paragraph (b) of § 2603.37 is amended by adding "or she" after "he", by redesignating the current language in paragraph (b) as paragraph (b)(1), and by adding a new paragraph (b)(2) to read as follows:

§ 2603.37 Action on request.

* * * * *

(b) * * *

(2) If the disclosure officer decides to grant a request with respect to a record despite objections pursuant to § 2603.18(f)(3)(i), the disclosure officer shall notify the submitter by providing a written statement that briefly explains why information is to be disclosed despite those objections, describes the information to be disclosed, and specifies the date on which the information will be made available to the requester. This notification shall, to the extent permitted by law, be provided a reasonable number of days prior to the date specified therein and shall also be provided to the requester.

6. Paragraph (a) of § 2603.41 is amended by adding "or her" after "his" in the second sentence, by designating the last sentence as paragraph (a)(1), and by adding new paragraph (a)(2) to read as follows:

§ 2603.41 Action on appeals.

(a) * * *

(2) When the disclosure officer denied the request based, in whole or in part, on exemption (4) without the notification described in paragraph (f)(3)(i) of § 2603.18, the General Counsel's review shall include application of the provisions of § 2603.18(f).

* * * * *

7. Paragraph (c) of § 2603.41 is amended by designating the second and third sentences as paragraph (c)(1) and by adding a new paragraph (c)(2) to read as follows:

§ 2603.41 Action on appeals.

* * * * *

(c) * * *

(2) If the General Counsel decides to grant an appeal with respect to a record despite objections pursuant to § 2603.18(f)(3)(i), the General Counsel shall notify the submitter by providing a written statement that briefly explains why information is to be disclosed despite those objections, describes the information to be disclosed, and specifies the date on which the information will be made available to the requester. This notification shall, to the extent permitted by law, be provided a reasonable number of days prior to the date specified therein and shall also be provided to the requester.

* * * * *

Issued in Washington, DC, this 23rd day of October, 1991.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 91-26112 Filed 10-29-91; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD2-91-06]

RIN-2115-AE13

Regulated Navigation Area; Monongahela River, Mile 81.0 to 83.0

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) on the Monongahela River from mile 81.0 to mile 83.0 to ensure the safety of vessel traffic and workers during the construction of Grays Landing Lock. The construction of the lock has reduced the width of the river to 372 feet through this area.

EFFECTIVE DATE: This rule becomes effective on November 29, 1991.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander David Eley, Chief of Port Operations, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, suite 700, Kossman Building, Forbes Avenue & Stanwix Street, Pittsburgh, Pennsylvania 15222. The telephone number is (412) 644-5808.

SUPPLEMENTARY INFORMATION: On May 9, 1991, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** at 56 FR 21458. Interested persons were invited to participate in this rulemaking by submitting written views, data or arguments no later than June 24, 1991. No comments were received.

Drafting Information

The drafters of this regulation are Lieutenant Commander Rhae A. Giacoma, Project Officer, Commanding Officer, U.S. Coast Guard Marine Safety

Office, suite 700, Kossman Building, Forbes Avenue & Stanwix Street, Pittsburgh, Pennsylvania 15222; and, Lieutenant Michael A. Suire, Project Attorney, Commander(d1), Second Coast Guard District, 1222 Spruce Street, room 2.102E, St. Louis, Missouri 63013–2832.

Discussion of Regulation

The U.S. Army Corps of Engineers, Pittsburgh District, is constructing a new lock at Grays Landing, mile 82.0 on the Monongahela River. The project is estimated to be completed on or about 31 December, 1992.

The erection of a cofferdam and steel sheet pile cells which will support the upper guard wall at the Grays Landing Lock has narrowed the width of the River to 372 feet. In the interest of vessel safety, protection of the cofferdam, and the safety of the persons working in the cofferdam, the Coast Guard is establishing an RNA to control vessel traffic through the construction area. The RNA is needed for large vessels, therefore traffic restrictions are only applicable to vessels required to carry a radiotelephone under title 33 CFR 26.03. The RNA extends from mile 81.0 to mile 83.0 of the Monongahela River.

Traffic on this two-mile length of the river is restricted to one-way passage, with no meeting, passing or overtaking authorized. Upbound vessels shall give way to downbound vessels and, when approaching mile 81.0, in the area of Cats Run Light and the daymark located on the right descending bank, shall contact any downbound vessels to arrange transit of the area. All downbound vessels, when approaching mile 83.0, in the vicinity of Warwick Mine on the left descending bank shall contact any upbound vessels to arrange transit of the area. Deviations from these requirements requires pre-authorization by the Captain of the Port, Pittsburgh. In addition, all vessels are required to remain at least 100 feet from the river face of the cofferdam and the upper guard wall cells.

The Waterways Association of Pittsburgh, a local waterborne commerce organization, was contacted to determine what impact, if any, the RNA would have on vessel traffic transiting the area. The Waterways Association stated that these restrictions will have no significant impact on commerce through this area since the configuration of the river has always necessitated caution in transit, and vessels have historically waited for one another to pass at certain points where the river bends.

Economic Assessment and Certification

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant under the guidelines of DOT Order 2100.5 dated May 22, 1990, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An economic evaluation has not been conducted and is deemed unnecessary as the impact of this regulation is expected to be minimal. Vessel traffic is not expected to be delayed for any extended period of time, and operations in this area have historically involved brief waiting periods for vessels in meeting situations. Vessels have traditionally stood by and waited for single file transit through restricted areas of this river.

Pursuant to 5 U.S.C. 601, *et seq.*, the Regulatory Flexibility Act, it is certified that this regulation will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This action has been reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with paragraph 2.B.2.g.(5) of the NEPA Implementing Procedures, COMDTINST M16475.1B. A copy of the Categorical Exclusion Determination is available for review in the docket.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria outlined in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment. As noted above, vessel traffic is not expected to be delayed for any extended period of time, and operations in this area have historically involved brief waiting periods for vessels in meeting situations. Vessels have traditionally stood by and waited for single file transit through restricted areas of this river.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

PART 165—[AMENDED]

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

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

2. Section 165.204 is added to read as follows:

§ 165.204 Monongahela River, Mile 81.0 to 83.0—Regulated Navigation Area.

(a) *Location.* The following is a regulated navigation area—The waters of the Monongahela River between mile 81.0 and mile 83.0.

(b) *Regulations.* Transit of the RNA by vessels required to have a radiotelephone under 33 CFR 26.03 may be made only under the following conditions:

(1) Traffic is restricted to one-way passage, with no meeting, passing, or overtaking authorized.

(2) Upbound vessels must give way to downbound vessels and, when approaching mile 81.0, in the area of Cats Run Light and the daymark located on the right descending bank, are to contact any downbound vessels in the area to coordinate transit of the area in accordance with this section.

(3) Downbound vessels, when approaching mile 83.0, in the vicinity of Warwick Mine on the left descending bank, are to contact any upbound vessels in the area to coordinate transit of the area in accordance with this section.

(4) All vessels must remain at least 100 feet from the river face of the cofferdam and the upper guard wall cell which have been erected as part of the Grays Landing Lock construction.

(c) Any deviations from this section must be authorized by the Captain of the Port, Pittsburgh, PA, prior to entering the RNA.

Dated: July 22, 1991.

W.J. Ecker,

Rear Admiral (Lower Half), United States Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 91–26122 Filed 10–29–91; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Sale and Disposal of National Forest Timber; Periodic Payments; Extension of Deadline To Apply for a Contract Modification To Provide for Periodic Payment and Market-related Contract Term Addition

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule is being issued to provide additional time for holders of timber sale contracts awarded on or before July 31, 1991, to apply for contract modification under 36 CFR 223.50(f). The new deadline for application is December 1, 1991. This rule-making responds to requests from timber sale purchasers who have found the current deadline inadequate. The intended effect is to ensure that affected purchasers have adquate time to evaluate the financial effect of requesting market-related contract term additions.

EFFECTIVE DATE: This rule is effective October 30, 1991.

FOR FURTHER INFORMATION CONTACT: Fred O. Walk, Timber Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 (202) 205–0858.

SUPPLEMENTARY INFORMATION: On July 31, 1991, (56 FR 36099), the Secretary of Agriculture adopted a final rule governing downpayments and periodic payments on National Forest System timber sale contracts. Paragraph (e) of 36 CFR 223.50 provides for adjustment of periodic payment determination dates when market-related contract term additions are granted under 36 CFR 223.52. Paragraph (f), however, provides that contracts executed prior to July 31, 1991, would not be modified to include the new provision for a market-related contract term addition unless the purchaser made a simultaneous request for modification implementing the new periodic payment requirements of § 223.50 by September 16, 1991. Only contracts executed prior to July 31, 1919 are subject to this deadline.

Subsequent to the publication of the final rule on July 31, 1991, timber industry associations and individual companies raised concerns that the deadline provided an insufficient amount of time to adequately evaluate the financial effect of the contract provisions implementing the final rule. Since the implementing contract provisions were not issued in final form until September 13, 1991, these industry representatives have requested that additional time be provided to assess the financial effects of modification of their contracts. If additional time is not provided, many purchasers will be precluded from taking advantage of the provisions because they have not requested modification and the current deadline has passed, or purchasers would have been compelled to submit a written request for contract modification based on incomplete information and evaluation of the benefit or risk of the modification just to meet the deadline. When a request for modification is received by the Contracting Officer, a modification package is prepared and provided for the purchaser's acceptance and signature. If the purchaser determined at this later date not to accept the modification, the Government would have needlessly incurred a significant cost in preparing the modification package.

In response to these concerns, the Department has concluded that the deadline of September 16, 1991, did not provide sufficient time for contract holders to adequately assess the desirability of requesting a contract modification. Moreover, the deadline affects a limited number of timber sale purchasers holding contracts for timber that were awarded on or before July 31, 1991. These purchasers may request modification of these existing contracts to include the market-related contract term addition and periodic payment provisions. Other than providing additional time for affected purchasers to make application, this rule does not provide any special consideration for these contract holders, since all contracts advertised and awarded after July 31, 1991, contain both the periodic payment requirement and the market-related contract term addition option.

The effect of this final rule will be to provide an additional 75 days, until December 1, 1991, for purchasers of contracts executed prior to July 31, 1991, to make a written request to include a contract provision that provides for market-related contract term additions and a simultaneous modification implementing periodic payment requirements.

Due to the operating season consideration and the approaching termination dates of a substantial number of timber sale contracts, the Agency finds it undesirable to extend the deadline beyond December 1, 1991. Further, all holders of eligible Forest Service timber sale contracts will receive actual notice of the extended deadline. Notice and public comment on the 45-day extension of the recently expired deadline for submission of written requests for modification of existing contracts under 36 CFR 223.50 is hereby determined to be impracticable and unnecessary pursuant to 5 U.S.C. 553. Thus, it is determined that good cause exists for not subjecting this administrative change to notice and public comment.

Environmental Impact

This final rule only provides 75 days of additional time for certain timber sale purchasers to make a written request to modify timber sale contracts. It will not affect the amount of the timber to be sold, where the contracts or sales will be located, the contract size, or any site specific resource impacts. This rule does not alter the requirement that each timber sale should be analyzed in compliance with the National Environmental Policy Act and its implementing regulations. Therefore, this rule will have no impact on the quality of the human environment, individually or cumulatively, and documentation of analysis of environmental effects of this rule in an environmental assessment or an environmental impact statement is not required.

Controlling Paperwork Burdens on the Public

This action will not result in additional procedures, paperwork, or other information collection not already required by law and approved for use. Under this final rule, only purchasers who wish to modify existing contracts to take advantage of the market-related contract term addition are required to make a written request. This requirement is a simple election which dose not require the purchaser to produce "facts" or "opinions." The requirements for making a written request to the Contracting Officer were discussed in the final rule published July 31, 1991, (56 FR 36103), and are unchanged by this rule.

The Department of Agriculture concludes that the establishment of December 1, 1991, as a deadline for making a written request for modification does not consitute a "collection of information" (under 5 CFR 1320.7(c) or 44 U.S.C. 3507(a)), and review pursuant to the Paperwork Reduction Act is not required.

Regulatory Impact

This final rule has been reviewed pursuant to Executive Order 12291 and Department of Agriculture procedures, and it has been determined that this regulation is not a major rule. The rule

merely provides additional time for holders of timber sale contracts awarded on or before July 31, 1991, to apply for contract modification. This action will not have an annual effect of $100 million or more on the economy, or substantially increase prices or costs for consumers, individual industries, Federal, State, or local governments or geographic regions. Furthermore, this action will not have signficant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The final rule imposes no additional requirements on small business timber sale purchasers or other small entities.

Lists of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

Therefore, for the reasons set forth in the preamble, part 223 of title 36 of the Code of Federal Regulations is amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST TIMBER

1. The authority citation for part 223 continues to read:

Authority: 90 Stat. 2958, 16 U.C.C. 472a, 98 Stat. 2213, 16 U.S.C. 618, unless otherwise noted.

Subpart B—Timber Sale Contracts

2. Amend § 223.50 by revising paragraph (f) to read as follows:

§ 223.50 Midpoint payment.

* * * * *

(f) In accordance with 36 CFR 223.52(a), no contract executed before July 31, 1991, shall be modified to allow for market-related contract term additions unless the purchaser makes a written request to the Contracting Officer by December 1, 1991, for a simultaneous modification implementing the periodic payment requirements of this section. The midpoint payment clause in contracts executed before July 31, 1991, is not the "periodic payment requirement" mandated by 36 CFR 223.52(a).

Dated: September 27, 1991.

George M. Leonard,

Associate Chief.

[FR Doc. 91-26107 Filed 10-29-91; 8:45 am]

BILLING CODE 3410-11-M

POSTAL SERVICE

39 CFR Parts 221, 222, 224, 233, 265, 273, 959

Conforming Postal Regulations to the Inspector General Act, Participation of Postal Employees Within the Inspection Service in Proceedings Where the United States Is Not a Party, and Other Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The primary purpose of this rule is to amend postal regulations to reflect the application of the Inspector General Act to the Postal Service by the Inspector General Act Amendments of 1988. It also adopts guidelines to regulate the participation of postal employees within the Inspection Service in proceedings where the United States is not a party, and makes minor editorial revisions and corrections.

EFFECTIVE DATE: October 30, 1991.

FOR FURTHER INFORMATION CONTACT: H.J. Bauman, 202-268-4415.

SUPPLEMENTARY INFORMATION: Section 8E of the Inspector General Act of 1978, Public Law No. 95-452, 5 U.S.C. app. 3, as added by the Inspector General Act Amendments of 1988, Public Law No. 100-504, established a statutory Office of Inspector General in certain "designated Federal entities" including the Postal Service. The application of the Inspector General Act to the Postal Service imposed new duties and responsibilities on, and extended new authority to, the Chief Postal Inspector, who, as provided by section 8E(f)(1) of the Act, also serves as the Inspector General of the Postal Service. The amendments to title 39, Code of Federal Regulations, described below, are intended to reflect the changes introduced by Public Law No. 100-504. In addition, they regulate the role postal employees within the Inspection Service may play in proceedings to which the United States is not a party, and make other miscellaneous amendments, minor editorial revisions, and corrections.

Part 221 is amended to include the Inspector General Act in the authority citation for the part, and, in § 221.8, to conform to the requirements in section 8E(f)(1) of the Inspector General Act that (1) the Postmaster General's appointment of the Chief Postal Inspector must be made "in consultation with the Governors" of the Postal Service, and (2) the Postmaster General's authority to remove or transfer that official can be exercised only "with the concurrence of the Governors." It is also amended to reflect the Act's requirement that the Postmaster General provide written notice to both Houses of Congress of the reasons for the removal or transfer of the Chief Postal Inspector.

Part 222 is amended to include the Inspector General Act in the authority citation for that part.

Part 224 is amended to include the Inspector General Act in the authority citation for that part, and, in § 224.3(a), to conform to the Act's provision that the Chief Postal Inspector shall also serve as the Inspector General of the Postal Service. In addition, revised § 224.3(b) provides an outline of the duties of the Postal Inspection Service, and § 224.3(c) is added to clarify that the Inspection Service is responsible for exercising the authority, and carrying out the duties, functions, and responsibilities, assigned to the Office of the Inspector General by the Inspector General Act. New § 224.3(d) authorizes independent legal counsel for the Chief Postal Inspector when acting as the Inspector General of the Postal Service.

Part 233 is given a new heading and the authority citation for that part is revised to include the Inspector General Act and 18 U.S.C. 3061.

The heading for § 233.1 is also revised and paragraph (a) is amended to refer to the authority under 18 U.S.C. 3061, as amended by Public Law 100-690, for Postal Inspectors to carry firearms and to make seizures of property as provided by law.

Section 233.1(b) is revised to provide that, in addition to enforcing postal laws, the investigative powers listed in § 233.1(a) may be used to enforce non-postal laws to the extent provided in an agreement between the Attorney General and the Postal Service.

Section 233.1(c), pertaining to authority to issue subpoenas for documents and information under the Program Fraud Civil Remedies Act, is revised to include reference to the authority to issue subpoenas provided under section 6(a)(4) of the Inspector General Act. It also delegates the Chief Postal Inspector's authority to sign and issue administrative subpoenas to certain officials in the Inspection Service, and prescribes how such subpoenas may be served.

New § 233.1(d) is added to authorize Postal Inspectors to accept, maintain custody of, and deliver mail while engaged in an audit or investigation.

Part 265 is amended to include the Inspector General Act in the authority citation for that part. In addition, new § 265.10(c) is added to prohibit postal employees within the Inspection Service from testifying or producing documents

in cases where the Postal Service or the United States is not a party, unless authorization is provided by the Chief Postal Inspector or appropriate Regional Chief Postal Inspector.

Part 273 is amended to correct typographical errors and to make minor editorial changes.

Part 959 is amended to reflect the Chief Postal Inspector's authority, under the Inspector General Act, to issue subpoenas for the production of documents and information.

List of Subjects in 39 CFR Parts 221, 222, 224, 233, 265, 273, 959

Administrative practice and procedure, Authority delegation (Government agencies) Freedom of information, Organizations and functions (Government agencies), Penalties, Postal Service, Privacy.

Accordingly, title 39 CFR, is amended as follows:

PART 221—GENERAL PRINCIPLES OF ORGANIZATION

1. The authority citation for part 221 is revised to read as follows:

Authority: 39 U.S.C. 201, 202, 203, 204, 401(2), 402, 403, 404; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App. 3.

2. In § 221.8, the first sentence of paragraph (a) is revised, and paragraph (c) is added, to read as follows:

§ 221.8 Officers.

(a) Except for the Chief Postal Inspector, officers serve at the pleasure of the Postmaster General. * * *

* * * * *

(c) The Postmaster General, in consultation with the Governors of the Postal Service, shall appoint the Chief Postal Inspector. With the concurrence of the Governors of the Postal Service, the Postmaster General may remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location in the Postal Service. If the Chief Postal Inspector is removed or transferred, the Postmaster General shall promptly notify both House of Congress in writing of the reasons for such removal or transfer.

PART 222—DELEGATIONS OF AUTHORITY

3. The authority citation for part 222 is revised to read as follows:

Authority: 39 U.S.C. 203, 204, 401(2), 402, 403, 404, 409; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App. 3.

PART 224—ORGANIZATIONS REPORTING DIRECTLY TO THE POSTMASTER GENERAL

4. The authority citation for part 224 is revised to read as follows:

Authority: 39 U.S.C. 203, 204, 401(2), 403, 404, 409, 1001; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App. 3.

5. Section 224.3 is revised to read as follows:

§ 224.3 Postal Inspection Service.

(a) The Postal Inspection Service is headed by the Chief Postal Inspector who also acts as:

(1) The Inspector General for the Postal Service,

(2) The investigating official under the Program Fraud and Civil Remedies Act, and

(3) The Security Officer and Defense Coordinator for the Postal Service.

(b) The Postal Inspection Service is responsible for:

(1) Protecting mail matter, postal facilities and other postal assets, employees, and people on postal premises.

(2) Enforcing laws related to the Postal Service, the mails, other postal offenses and other laws of the United States.

(3) Conducting investigations into violations of federal laws that the Attorney General determines have a detrimental effect upon the operations of the Postal Service.

(4) Carrying out investigations and presenting evidence to the Department of Justice, U.S. Attorneys, and state and local authorities, in investigations of a criminal or civil nature.

(5) Carrying out administrative and civil investigations and presenting findings and evidence to postal management and attorneys in connection with administrative and civil actions.

(6) Performing internal audits of postal financial and nonfinancial operations.

(7) Providing security and defense coordination for the Postal Service.

(8) Maintaining liaison with investigative and law enforcement agencies, and all levels of government on matters of mutual interest.

(c) The Postal Inspection Service is responsible for exercising the authority, and carrying out the duties, functions, and responsibilities assigned to the Office of the Inspector General by the Inspector General Act.

(d) When the Chief Inspector determines it is necessary for carrying out the duties of Inspector General of the Postal Service, the Chief Inspector my employ independent legal counsel.

§ 224.41 [Amended]

6. Section 224.4(b)(1) is amended by inseritng a comma and the words "except as provided in § 224.3(d)" immediately after "Postal Service" the second time it appears.

PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY

7. The heading of part 233 is revised to read as set forth above.

8. The authority citation for part 233 is revised to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App. 3.

9. In § 233.1, the section heading and the introductory text of paragraph (a) are revised, the word "subpenas" is replaced by "subpoenas" in paragraph (a)(1); the word "and" is removed following the semicolon in paragraph (a)(2); the period is replaced by a semicolon at the end of paragraph (a)(3); paragraphs (b) and (c) are revised; and paragraphs (a)(4), (a)(5) and (d) are added to read as follows:

§ 233.1 Arrest and investigative powers of Postal Inspectors.

(a) Authorization: Postal Inspectors are authorized to perform the following functions in connection with their official duties:

* * * * *

(4) Carry firearms; and

(5) Make seizures of property as provided by law.

(b) Limitations. The powers granted by paragraph (a) of this section shall be exercised only—

(1) In the enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails, and other postal offenses; and

(2) To the extent authorized by the Attorney General pursuant to agreement between the Attorney General and the Postal Service, in the enforcement of other laws of the United States, if the Attorney General determines that the violation of such laws will have a detrimental effect upon the operations of the Postal Service.

(c) Issuance of subpoenas. (1) In accordance with part 273 of this chapter, the Chief Postal Inspector may issue subpoenas under the Program Fraud Civil Remedies Act.

(2) In accordance with the Inspector General Act of 1978, the Chief Postal Inspector may issue subpoenas to persons or entities other than Federal

agencies for the production of information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of functions assigned by the Inspector General Act.

(3) The Chief Postal Inspector hereby delegates authority to sign and issue administrative subpoenas to the following officials: Assistant Chief Inspectors, Regional Chief Postal Inspectors, Assistant Regional Chief Postal Inspectors, and the Inspector in Charge—Special Investigations Division.

(4) Administrative subpoenas may be served by delivering a copy to a person or by mailing a copy to his or her last known address. For the purposes of this provision, delivery of a copy includes handing it to the party or leaving it at the party's office or residence with a person of suitable age and discretion employed or residing therein. Service by mail is complete upon mailing.

(d) In conducting any investigation or audit, Postal Inspectors are authorized to accept, maintain custody of, and deliver mail.

PART 265—RELEASE OF INFORMATION

10. The authority citation for part 265 is revised to read as follows:

Authority: 39 U.S.C. 401; 5 U.S.C. 552; Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended), 5 U.S.C. App. 3.

11. In § 265.10, revise the section heading and add paragraph (c) to read as follows:

§ 265.10 Compliance with subpoena duces tecum, court orders, and summonses; regulation of testimony by postal employees within the Inspection Service and production of documents in cases where the Postal Service or the United States is not a party.

* * * * *

(c) Testimony by postal employees within the Inspection Service and production of documents in cases where the Postal Service or the United States is not a party.

(1) *Purpose and scope.* This provision limits the participation of (postal employees within) the Inspection Service in private litigation and other proceedings in which the Postal Service or the United States is not a party. The rules set out below are intended to promote careful supervision of Inspection Service resources and to reduce the risk of inappropriate disclosures which may affect postal operations.

(2) *Policy.* No postal employee within the Inspection Service may testify or produce documents concerning information acquired in the course of his or her employment or as a result of his or her official relationship with the Postal Service in any proceeding to which this subsection applies (see paragraph (c)(3) of this section), unless authorized to do so. Authorization will be provided if the Regional Chief Postal Inspector determines after consulting with the Chief Field Counsel, that no legal objection, privilege, or exemption applies to such testimony or production of documents. The Chief Postal Inspector is the authorizing official for Headquarters employees and records. If additional information is necessary before a determination can be made, the authorizing official, through counsel, may request assistance from the Department of Justice.

(3) *Applicability.* These rules apply to all Federal, State, and local court proceedings, as well as administrative and legislative proceedings, other than:

(i) Proceedings where the United States, the Postal Service, or any other Federal agency is a party;

(ii) Congressional requests or subpoenas for testimony or documents;

(iii) Consultative services and technical assistance rendered by the Inspection Service in executing its normal functions;

(iv) Employees serving as expert witnesses in connection with professional and consultative services under § 447.23 of this chapter, provided that employees acting in this capacity must state for the record that their testimony reflects their personal opinions and should not be viewed as the official position of the Postal Service; and

(v) Employees making appearances in their private capacities in proceedings that do not relate to the Postal Service (i.e., cases arising from traffic accidents, domestic relations, etc.) and do not involve professional and consultative services.

(4) *Definitions.* For the purposes of this subsection:

(i) *Employee* refers to a Postal Service employee currently or formerly assigned to the Inspection Service;

(ii) *Demand* includes any request, order, or subpoena for testimony or the production of documents;

(iii) *Nonpublic* includes any material or information not subject to mandatory public disclosure under § 265.6(b);

(iv) *Document* means all records, papers, or official files, including but not limited to, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, graphs, notes, charts, tabulations, data analysis, statistical or information accumulations, records of meetings and conversations, film impressions, magnetic tapes, and sound or mechanical reproductions;

(v) *Case* or *matter* means any civil proceeding before a court of law, administrative board, hearing officer, or other body conducting a judicial or administrative proceeding in which the Postal Service or the United States is not a named party; and

(vi) *Testify* or *testimony* includes both in-person, oral statements before any body conducting a judicial or administrative proceeding, and statements made in depositions, answers to interrogatories, declarations, affidavits, or other similar documents.

(5) *General procedures.* (i) To facilitate an orderly response to demands for the testimony of postal employees within the Inspection Service, and the production of documents in cases where the Postal Service or the United States is not a party, all demands for the production of nonpublic documents or testimony of postal employees within the Inspection Service concerning matters relating to their official duties and not subject to the exceptions set forth in paragraph (c)(3) of this section should be in writing and conform with paragraphs (c)(5) (ii) and (iii) of this section.

(ii) Before or simultaneously with a demand described in paragraph (c)(5)(i) of this section, the requesting party should serve the Chief Postal Inspector with an affidavit or statement containing the following information:

(A) The title of the case and the forum where it will be heard;

(B) The party's interest in the case;

(C) The reasons for the request;

(D) A showing that the requested information is available by law to a party outside the Postal Service; and

(E) A showing that the desired documents or testimony cannot be reasonably obtained by any other means.

(iii) Where testimony is sought, in addition to the requirements of paragraph (c)(5)(ii) of this section, the requesting party should also provide the following:

(A) A summary of the testimony desired;

(B) The intended use of the testimony; and

(C) A showing that Inspection Service records could not be provided and used in place of the requested testimony.

(iv) A subpoena for testimony or for the production of documents from a postal employee within the Inspection Service concerning official matters shall be served in accordance with the applicable rules of civil procedure, and a copy of the subpoena should be sent to

the appropriate Regional Chief Postal Inspector.

(v) Any postal employee within the Inspection Service who is served with a demand shall promptly inform the appropriate Regional Chief Postal Inspector of the nature of the documents or information sought, and all relevant facts and circumstances.

(6) *Authorization of testimony or production of documents.* (i) The Regional Chief Postal Inspector, after consulting with the Chief Field Counsel, may determine whether requested testimony or the production of documents will be authorized.

(ii) Before authorizing the requested testimony or the production of documents, the Regional Chief Postal Inspector shall consider the following factors:

(A) Statutory restrictions, as well as any legal objection, exemption, or privilege which may apply;

(B) Relevant legal standards for disclosure of nonpublic information and documents;

(C) Inspection Service rules and the public interest;

(D) Conservation of employee time; and

(E) Prevention of expenditures of government resources for private purposes.

(iii) On behalf of the Inspection Service, the Chief Field Counsel may consult or negotiate with the party seeking the testimony or documents, or that party's counsel, to refine and limit the demand so that compliance is less burdensome, or obtain information necessary to make the determination described in paragraph (c)(6)(i) of this section. If the party seeking the testimony or documents, or the party's counsel, fails to cooperate in good faith to enable the Chief Field Counsel to make an informed recommendation to the Regional Chief Postal Inspector, such failure may be presented as a basis for an objection to the court or other body conducting the proceeding.

(iv) Permission to testify will, in all cases, be limited to the information set forth in the affidavit or statement as described in paragraphs (c)(5) (ii) and (iii) of this section or to such portions thereof as the Regional Chief Postal Inspector determines are not subject to objection.

(v) If the Regional Chief Postal Inspector authorizes the testimony of an employee, arrangements should be made for the taking of testimony by those methods which will least disrupt the employee's official duties. Testimony may, for example, be provided by affidavits, answers to interrogatories, written depositions, or depositions transcribed, recorded, or preserved by any other means allowable by law.

(vi) Absent written authorization from the Regional Chief Postal Inspector, the employee shall respectfully decline to produce the requested documents, to testify, or otherwise to disclose requested information.

(vii) If authorization is denied or not received by the return date, the employee, together with counsel, where appropriate, shall appear at the stated time and place, produce a copy of this section, and respectfully decline to testify or produce any documents on the basis of these regulations.

(viii) The employee will appear unless the Chief Field Counsel has advised that an appearance would be inappropriate, as in cases where the subpoena was not validly issued or served, where the subpoena has been withdrawn, where the discovery has been stayed, or where the Postal Service will present a legal objection to furnishing the requested information or testimony.

(7) *Postal liability.* This section is intended to provide instructions to postal employees within the Inspection Service, and does not create any right or benefit, substantive or procedural, enforceable by any party against the Postal Service.

(8) *Fees.* (i) Unless determined by 28 U.S.C. 1821, or any other applicable statute, the costs of providing testimony, including transcripts, will be borne by the party requesting the testimony. Unless limited by statute, such costs shall also include reimbursement to the Postal Service for the usual and ordinary expenses attendant upon the employee's absence from his or her official duties in connection with the case or matter, including the employee's salary and applicable overhead charges, and any necessary travel expenses.

(ii) The Inspection Service is further authorized to charge reasonable fees to parties demanding documents or information. Such fees, calculated to reimburse the Postal Service for the cost of responding to a demand, may include the costs of time expended by Inspection Service employees to process and respond to the demand, attorney time for reviewing the demand and for relegated legal work in connection with the demand, and expenses generated by equipment used to search for, produce, and copy the requested information. Such fees will be assessed at the rates and in the manner specified in § 265.8.

(iii) This provision does not affect the rights and procedures governing public access to official documents pursuant to the Freedom of Information Act or the Privacy Act.

PART 273—ADMINISTRATION OF PROGRAM FRAUD CIVIL REMEDIES ACT

12. The authority citation for part 273 continues to read as follows:

Authority: 31 U.S.C. chapter 38; 39 U.S.C. 401.

§ 273.2 [Amended]

13. In § 273.2(a)(1), remove the word "of" and insert in its place "for."

14. In § 273.2(e), introductory text, insert the word "to" between the words "reason" and "know."

15. In § 273.2(e)(2), remove the word "of" after the word "claim" and insert the word "or" in its place.

16. In § 273.2(g), remove the word "refer" and insert the word "refers" in its place.

§ 273.3 [Amended]

17. In § 273.3(a)(5), last sentence, remove the word "subtained" and insert the word "sustained" in its place.

§ 273.5 [Amended]

18. In § 273.5(b)(1), insert the words "under this authority" after the word "Official" the second time it appears and before the word "shall."

19. In § 273.5(b)(2), in the third sentence, remove the word "under" the second time it appears.

20. In § 273.5(c), introductory text, remove the word "reporting" and insert the word "report" in its place.

§ 273.8 [Amended]

21. In § 273.8(a)(4), remove the word "or" the first time it appears and insert "an" in its place.

PART 959—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE PRIVATE EXPRESS STATUTES

22. The authority citation for part 959 continues to read as follows:

Authority: 39 U.S.C. 204, 401; 39 CFR 224.1(c)(6)(ii)(D).

§ 959.18 [Amended]

23. In § 959.18 add the following sentence at the end thereof: "This does not affect the authority of the Chief Postal Inspector to issue subpoenas for the production of documents or information pursuant to § 233.1(c) of this chapter."

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91-25966 Filed 10-29-91; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL-4026-8]

Delegation of Authority to the State of New Mexico for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP)

AGENCY: Environmental Protection Agency.

ACTION: Notice of delegation of authority.

SUMMARY: The Environmental Protection Agency (EPA) announces the delegation of full authority to the State of New Mexico to implement and enforce additional source categories of the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) including the subsequent revisions and amendments to the standards for which full authority had been delegated to the State by the previous delegation agreement on March 15, 1985. The last coverage update of the delegation agreement was approved on January 30, 1991, and a notice of it was published in the Federal Register of February 28, 1991 (56 FR 8280). Based on the State's request of May 31, 1991, the EPA has now granted full authority to the State for the NSPS and NESHAP through December 4, 1990, applicable only in certain areas of the State, and partial authority for new and amended standards after that date.

This delegation of authority does not apply to: (1) The sources located in Bernalillo County, New Mexico, (2) the sources located on Indian lands as specified in the delegation agreement and in this notice, (3) the standards of performance for New Residential Wood Heaters (Subpart AAA) under 40 CFR part 60, and (4) the NESHAP radionuclide standards specified under 40 CFR part 61.

EFFECTIVE DATE: October 11, 1991.

ADDRESSES: The State's request and delegation agreement may be requested by writing to one of the following addresses:

Chief, Planning Section (6T-AP), Air Programs Branch, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 655-7214.

Chief, Air Quality Bureau, New Mexico Environmental Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87503, Telephone: (505) 827-0042.

All other requests, reports, applications and such other communications which are required to be submitted under 40 CFR part 60 and 40 CFR part 61 (including the notifications required under subpart A of the regulations) for the affected facilities, in areas outside of Indian lands or Bernalillo County, should be sent directly to the State of New Mexico at the above address. Sources located on all Indian lands (including Bernalillo County), sources subject to the standards of performance for New Residential Wood Heaters—subpart AAA under 40 CFR part 60 (except for Bernalillo County), and sources subject to the NESHAP radionuclides under 40 CFR part 61 in the State of New Mexico should submit the information specified above to the Chief, Air Enforcement Branch, EPA Region 6 Office at the address given in this notice. The affected sources located within the boundaries of Bernalillo County, outside of Indian lands, should submit all of the required information (except for the NESHAP radionuclides under 40 CFR part 61) to Director, The Albuquerque Environmental Health Department, The City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E., Planning Section, Air Programs Branch, United States Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone number (214) 655-7214.

SUPPLEMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act allow the Administrator of the EPA to delegate EPA's authority to any State which can submit adequate regulatory procedures for implementation and enforcement of the NSPS and NESHAP programs.

On October 19, 1984, New Mexico Environmental Department (NMID) requested full delegation of authority for the implementation and enforcement of NSPS through March 14, 1984, and NESHAP through December 9, 1983. The State also requested partial authority for the technical and administrative review of new or amended NSPS and NESHAP in the October 19, 1984 letter. The delegation request was granted to the State subject to the conditions and limitations specified in the delegation agreement which was approved on March 15, 1985. The March 15, 1985, delegation agreement provided full authority for the State to implement and enforce the NSPS and NESHAP through March 14, 1984, and December 9, 1983, respectively. Also, the State received partial authority for implementation of NSPS and NESHAP subparts effective after the specified dates in the State regulations and for amendments of fully delegated NSPS and NESHAP subparts after the dates specified above. The State's authority was approved only for the areas outside of Indian lands and Bernalillo County. The last coverage update of the delegation agreement was approved on January 30, 1991, and a notice of it was published in the Federal Register of February 28, 1991 (56 FR 8280).

On May 31, 1991, the NMED requested the EPA to grant full authority for additional source categories and amendments to the fully delegated NSPS and NESHAP subparts by extending the coverage date through December 4, 1990, for the NSPS and NESHAP. Based on review of State's Air Quality Control Regulations (AQCR) 750 (for NSPS) and 751 (for NESHAP), the EPA delegated full authority to the State as requested in the letter of May 31, 1991. AQCRs 750 and 751 incorporate the Federal NSPS and NESHAP by reference through the date specified above except for the performance standards for New Residential Wood Heaters—Subpart AAA under 40 CFR part 60 and the NESHAP radionuclide standards under 40 CFR part 61. The provisions and conditions specified in the March 15, 1985, delegation agreement and its supplements shall remain unchanged and effective except the revision of the appropriate dates as cited above. The revised authorized dates have been listed in Table 1 for NSPS and Table 2 for NESHAP. These tables noting the revised effective date have been approved by the Regional Administrator, and are thereby incorporated as part of the March 15, 1985, delegation agreement. No authority has been delegated for the standards of performance for New Residential Wood Heaters—subpart AAA under 40 CFR part 60 and the NESHAP radionuclide standards specified under 40 CFR part 61.

Today's notice informs the public that the EPA has expanded the State's full authority to implement and enforce the NSPS and NESHAP through December 4, 1990. All reports required pursuant to the Federal NSPS and NESHAP (40 CFR part 60 and 40 CFR part 61) by sources located in the State of New Mexico, in areas outside of Indian lands or Bernalillo County, should be submitted directly to the New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico 87503. Sources located on all Indian lands (including Bernalillo County), sources subject to the standards of

performance for New Residential Wood Heaters—subpart AAA under 40 CFR part 60 (except for Bernalillo County), and sources subject to the NESHAP radionuclides under 40 CFR part 61 in the State of New Mexico should apply to the Chief, Air Enforcement Branch, EPA Region 6 Office at the address given in this notice The affected sources located within the boundaries of Bernalillo County, outside of Indian lands, should submit all of the required information (except for the NESHAP radionuclides under 40 CFR part 61) to Director, The Albuquerque Environmental Health Department, the City of Albuquerque, P O Box 1293, Albuquerque, New Mexico 87103

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

This delegation is issued under the authority of section 111(c) and 112(d) of the Clean Air Act, as amended (42 U.S.C. 7411(c) and 7412(d)).

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Fossil-Fuel fired steam generators, Glass and glass products, Grain, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper industry, Petroleum, Phosphate, Fertilizer, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Air pollution control, Asbestos, Benzene, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: October 11, 1991.

A. Stanley Meiburg,

Acting Regional Administrator

[FR Doc. 91-26126 Filed 10-29-91, 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6898

[AK-932-4214-10; AA-73191]

Withdrawal of Public Lands for the Unalakleet Administrative Sites; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 0.35 acre of public lands from settlement and selection under the public land laws, including location and entry under the mining laws, for a period of 20 years for the Bureau of Land Management to protect the Unalakleet joint use administrative sites. The lands have been and will remain closed to mineral leasing as they are located within an incorporated city (30 U.S.C. 181 (1988)).

EFFECTIVE DATE: October 30, 1991.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1 Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement and selection under the public land laws, including location and entry under the United States mining laws (30 U.S.C. ch. 2 (1988)) for the protection of the Unalakleet Bureau of Land Management administrative sites:

Kateel River Meridian

That portion of T. 18 S., R. 11 W., sec. 34, as described in the warranty deed accepted May 31, 1990, and more particularly described as: lot 2, Block 38, containing 8,694 sq. ft. and lot 2, Block 29, containing 6,600 sq. ft., as shown on sheet 2 of 3, Plat of Unalakleet Townsite Addition No. 1, dated May 26, 1988, and filed December 9, 1988, under instrument No. 88-8, Cape Nome Recording District, Second Judicial District, State of Alaska.

The areas described aggregate 0.35 acre (15,294 sq. ft.).

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: October 18, 1991

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-26094 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-JA-M

43 CFR Public Land Order 6899

[AK-932-4214-10; A-029960, A-033229]

Revocation of Public Land Order Nos. 1537 and 1722, for Selection of Lands by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in their entirety, two public land orders as they affect approximately 231.44 acres of public lands reserved under the jurisdiction of the Secretary of the Interior for administration and maintenance of public recreation areas at or near Lake Louise, Susitna Lake, and Tyone Lake, Alaska. The lands are no longer needed for the purpose for which they were withdrawn. This action also opens the lands for selection by the State of Alaska, if such lands are otherwise available. Any lands described herein that are not conveyed to the State will be subject to the terms and conditions of any withdrawal of record.

EFFECTIVE DATE: October 30, 1991

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Public Land Order Nos. 1537 and 1722 are hereby revoked as they affect the following described lands:

Copper River Meridian

(a) Public Land Order No. 1537 (A-029960)

Area No. 1, located within Tps. 6 N., Rs. 7 and 8 W., more particularly described as:

A tract of land 132 feet on either side of a stream, and an unnamed lake lying midway of the stream, running from the outlet of Little Lake Louise, in approximate latitude 62°17'50" N., longitude 146°38'20" W., easterly and northeasterly approximately 11, 616 feet to the shores of a bay of Lake Louise.

The area described contains approximately 70 acres. Area No. 2, located with T. 7 N., R. 7 W., more particularly described as:

A tract of land 132 feet on either side of a stream, from the northeastern shore of Lake Louise, in approximate latitude 62°21'40" N., longitude 146°32'40" W., northwesterly and northeasterly approximately 8,448 feet to the shores of Dog Lake, and includes U.S. Survey No. 3495, lot 11

The area described contains approximately 51 acres.

Area No. 3, located within T. 7 N., R. 7 W., currently described as: U.S. Survey No. 4583, lot 4, which contains 4.69 acres; and U.S. Survey No. 4583, lot 5, which contains 1.68 acres.

Area No. 4, located within T. 8 N., R. 8 W., currently described as: U.S. Survey No. 4586, lot 6, which contains 77.15 acres.

The areas described in paragraph 1(a) aggregate approximately 204.52 acres.

(b) Public Land Order No. 1722 (A-033229)

Tract A, located within T. 9 N., R. 8 W., currently described as: U.S. Survey No. 4833, lot 2, which contains 9.35 acres.

Tract C, located within T. 8 N., R. 8 W., currently described as: U.S. Survey No. 4591, lot 13, which contains 4.44 acres.

Tract D, located within T. 8 N., R. 8 W., currently described as: U.S. Survey No. 4588, which contains 4.91 acres.

Tract E, located within T. 7 N., R. 7 W., more particularly described as:

Beginning at a point on the east shore of Lake Louise, latitude 62°20'18" N., longitude 146°28'16" W.;

Thence northeasterly 330 feet;

Thence northwesterly 330 feet;

Thence southwesterly 330 feet to a point on the shore of the lake;

Thence southeasterly 330 feet along the shoreline to the point of beginning.

The area described contains approximately 2.5 acres.

Tract H, located within T. 6 N., R. 8 W., currently described as: U.S. Survey No. 4859, lot 4, which contains 5.72 acres.

The areas described in paragraph 1(b) aggregate approximately 26.92 acres.

The areas described in paragraphs 1(a) and (b) aggregate a total of approximately 231.44 acres.

2. Subject to valid existing rights, the lands described above are hereby opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988), or Section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b) (1988).

3. The State of Alaska applications for selections made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), become effective without further action by the State upon publication of this public land order in the **Federal Register**, if such lands are otherwise available. Lands not conveyed to the State will be subject to the terms and conditions of any withdrawal of record.

Dated: October 18, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-26095 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-JA-M

43 CFR Public Land Order 6900

[AK-932-4214-10; F-86058]

Partial Revocation of Public Land Order No. 5187, as Amended, for Selection of Land by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a public land order insofar as it affects approximately 1,600 acres of public land withdrawn for classification and protection of the public interest in the vicinity of the Chena River Recreation Area. This action also opens the land for selection by the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of any other withdrawal of record.

EFFECTIVE DATE: October 30, 1991.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Public Land Order No. 5187, as amended, is hereby revoked as it affects the following described land:

Fairbanks Meridian

T. 1 S., R. 6 E. (Partly Unsurveyed),
Sec. 22, S½;
Secs. 27 and 34.

The area described contains approximately 1,600 acres.

2. Subject to valid existing rights, the land described above is hereby opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988), or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b) (1988).

3. The State of Alaska applications for selection made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will be subject to the terms and conditions of any other withdrawal of record.

Dated: October 18, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-26096 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-JA-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-85; RM-7147]

Radio Broadcasting Services; Greenville, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 228C2 for Channel 228A at Greenville, Texas, and modifies the license of Station KIKT, Greenville, Texas to specify operation on Channel 228C2. See 55 FR 9148, March 12, 1990. This document also dismisses a counterproposal filed by Lenox Broadcasting Corporation which proposed a change in the Station KIKT community of license from Greenville, Texas, to Cooper, Texas. The reference coordinates for the Channel 228C2 allotment at Greenville, Texas, are 33-17-58 and 95-52-40. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 9, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-85, adopted October 11, 1991, and released October 25, 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, 1714 21st Street NW. Washington, DC 20036, (202) 452-1422.

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 Texas, is amended by

removing Channel 228A and adding Channel 228C2 at Greenville.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-26100 Filed 10-29-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-216; RM-7742]

Radio Broadcasting Services; Camas, Washington

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of KMAS Broadcasting Corporation, substitutes Channel 234C3 for Channel 234A at Camas, Washington, and modifies Station KMUZ(FM)'s construction permit to specify operation on the higher powered channel. See 56 FR 33739, July 23, 1991.

Channel 234C3 can be allotted to Camas in compliance with the Commission's minimum distance separation requirements at the petitioner's requested site with a site restriction of 19.1 kilometers (11.9 miles) east of the community. The coordinates for Channel 234C3 at Camas are North Latitude 45-31-39 and West Longitude 122-10-17. Since Camas is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 9, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-216, adopted October 10, 1991, and released October 25, 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 Washington, is amended by removing Channel 234A and adding Channel 234C3 at Camas.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-26101 Filed 10-29-91; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 56, No. 210
Wednesday, October 30, 1991

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86-328]

RIN 0579-AA25

Imported Fire Ant

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to revise completely "Subpart—Imported Fire Ant," which contains quarantine and interstate movement regulations for the containment and control of this destructive plant pest. We believe revising the regulations would make them easier to understand, thereby increasing compliance and the effectiveness of the regulations in preventing the interstate spread of the imported fire ant.

Under the current regulations, areas quarantined due to imported fire ant infestations are designated as either "suppressive" or "generally infested," depending upon the level of eradication activities within the area. This dual designation system is outmoded and is not applicable within the current cooperative Federal-State imported fire ant control program. We propose to update and simplify the regulations by substituting a single "quarantined area" designation. In addition, we propose to remove most of the restrictions on the interstate movement of hay and straw, and to expand the current exemption for houseplants to include all plants maintained indoors in a home or office environment and not for sale. We also propose to revise the definition of "infestation" and to add procedures for treatment of regulated articles for imported fire ant. These changes should eliminate unnecessary restrictions and promote greater compliance, without increasing the risk of interstate spread of imported fire ants.

DATES: Consideration will be given only to comments received on or before December 30, 1991.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 86-328. Comments received may be inspected at room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Stefan, Assistant Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The restrictions in "Subpart—Imported Fire Ant" (§§ 301.81 to 301.81-10) of part 301, "Domestic Quarantine Notices," title 7, Code of Federal Regulations, (referred to below as "the regulations") prevent the spread of imported fire ants on articles moving in interstate commerce by (1) quarantining infested States or infested areas within States, and (2) imposing restrictions on the interstate movement of certain regulated articles.

Imported fire ants, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, are aggressive stinging insects that, in large numbers, can seriously injure or even kill livestock, pets, and humans. The ants feed on crops and their large, hard mounds damage farm and field machinery.

The imported fire ant is not native to the United States. The regulations, which have been in effect since 1958, prevent the ant from spreading throughout its ecological range within this country. Our proposed revision would strengthen the regulations by updating outmoded provisions, removing unnecessary restrictions on interstate trade, and increasing clarity through reorganization and simplification.

Reorganizational Overview

The following table is provided as a reference for comparison of current and proposed requirements and procedures. The "current" column lists existing sections, paragraphs, and footnotes that we are proposing to revise, delete, or reorganize. The "proposed" column lists the proposed designations of this material in the revised regulations:

DISTRIBUTION TABLE

Current	Proposed
301.81(a)	301.81-3(e).
301.81(b)	301.81-2.
Footnote 1 to 301.81(b)	Footnote 2 to 301.81-2.
301.81-1	301.81-1.
Footnote 1 to 301.81-1(v)	Footnote 8 to Appendix.
301.81-2(a) & (b)	301.81-3(a) through (d).
301.81-2(c) & (d)	Deleted.
301.81-2a	301.81-3(e).
301.81-2b	301.81-2.
Footnote 1 to 301.81-2b	Deleted.
Footnote 2 to 301.81-2b	Footnote 2 to 301.81-2.
Footnote 3 to 301.81-2b	301.81-1.
301.81-3	301.81-4.
Footnote 4 to 301.81-3	301.81-5(a)(1) & (b)(3).
Footnote 5 to 301.81-3	Footnote 3 to 301.81-4.
Footnote 6 to 301.81-3	Footnote 3 to 301.81-4.
301.81-4(a), (b) & (e)	301.81-5.
301.81-4(c) & (d)	Deleted.
301.81-4(f)	301.81-7.
301.81-5(a)	301.81-6 & Footnote 6.
301.81-5(b)	301.81-7
301.81-6	301.81-8.
301.81-7	301.81-9.
301.81-8	301.81-4(b).
301.81-9	Footnote 1 to 301.81-2.
301.81-10	301.81-10.
N/A	Footnote 4 to 301.81-5.
N/A	Footnote 5 to 301.81-5.
N/A	Appendix.

The following paragraphs discuss the ways in which the current regulations would be revised under our proposal.

Quarantined Areas

Currently, the regulations contain the following designations for areas infested by the imported fire ant:

1. *Quarantined State.*

2. *Regulated area,* which is defined as "any quarantined State or any portion thereof, listed as a regulated area in § 301.2a or otherwise designated as a regulated area in accordance with § 301.81-2(b)."

3. *Suppressive area;* which is defined as "that portion of a regulated area where eradication of infestation is

undertaken as an objective, as designated under § 301.82–2(a);" and

4. *Generally infested area*, which is defined as "any part of a regulated area not designated as a suppressive area in accordance with § 301.81–2."

The suppressive area designation can be used only where eradication of infestation is undertaken as an objective. However, the treatments that once made eradication possible have been judged environmentally unsafe and can no longer be used against the imported fire ant. Because it is currently not feasible to accomplish eradication, the suppressive area designation is no longer used and movement restrictions specific to this designation no longer have any application. As a result, the other three designations for an imported fire ant infested area—"quarantined State," "regulated area," and "generally infested area"—are used interchangeably, except that regulated and generally infested areas need not be entire States.

We propose, therefore, to update and simplify the regulations by removing the unnecessary suppressive area designation and its related provisions, by unifying the three remaining designations into a single "quarantined area" designation, and by removing the definitions of "generally infested area," "regulated area," and "suppressive area."

We would also include in proposed § 301.81–3(c) the criteria the Administrator would consider when determining if an area should be subject to quarantine due to its proximity to infestation or its inseparability from infested localities for quarantine purposes. In making this determination, the Administrator would consider: (1) Projections of spread of imported fire ant around the periphery of the infestation, based on previous years' surveys; (2) the availability of natural habitats and host materials within the uninfested acreage that are suitable for establishment and survival of imported fire ant populations; and (3) the necessity of including uninfested acreage within the quarantined area in order to establish readily identifiable boundaries.

Merger and Revision of the Regulated and Exempted Lists

The regulations prohibit or restrict the interstate movement from a quarantined area of articles that may be infested with imported fire ants. These articles are designed as "regulated articles" and are listed in current § 301.81(b).

Under certain conditions, articles on the "regulated articles" list may be exempted from interstate movement restrictions. These exemptions are listed in current § 301.81–2b. For example, "soil" is listed as a regulated article requiring certification in current § 301.81(b)(1), while "potting soil" is exempted from certification in current § 301.81–2b(a). As currently published in the regulations, the list of regulated articles is separated from its exemptions by a listing (§ 301.81–2a) of the areas and States quarantined under this subpart. This may be confusing to readers who are attempting to determine the status of articles they wish to move interstate. To eliminate this confusion, we propose to combine the separate listings of regulated articles and exemptions within a single new section to be designated § 301.81–2.

Current regulations restrict the interstate movement of all hay and straw, unless used for packing or bedding. However, based on the experience of our inspectors, we believe that infestation can not occur as long as baled hay and baled straw are not stored in direct contact with the ground. Also, based on experience, we believe that by evaluating the bales for dampness, discoloration, deterioration, and soil contamination, an inspector can easily distinguish which bales of hay and straw have not been stored in contact with the ground. In proposed § 301.81–2(c), therefore, we would provide that hay and straw are regulated articles, if they are baled and have been stored in direct contact with the ground.

Current § 301.81(b)(2) exempts "houseplants grown in the home and not for sale" from regulation, because decorative plants in a private home are maintained under controlled, monitored conditions that prevent infestation by imported fire ants. The same is true, however, for plants grown or maintained in commercial or government buildings. Therefore, we would revise this exemption in proposed § 301.81–2(d), to include any "plants maintained indoors in a home or office environment and not for sale."

Current § 301.81–2b(d) exempts "transplants, if substantially free of soil" from regulation. This provision is unnecessary, because the current subpart only regulates "plants with roots and soil attached." Plants that do not have soil attached are not regulated. We propose, therefore, to delete this unnecessary exemption from the regulations.

The interstate movement of used mechanized soil-moving equipment is currently regulated (§ 301.81(b)(5)), unless "it has only compacted soil or is cleaned of all noncompacted soil" (§ 301.81–2b(c)). We propose to eliminate the need for this exemption by revising the listing of used soil-moving equipment as a regulated article to read, in proposed § 301.81–2(e): "Used soil-moving equipment, unless cleaned of all noncompacted soil." Additionally, our experience in enforcing the regulations has indicated that soil-moving equipment need not be mechanized to pose the risk of imported fire ant infestation. Therefore, we are proposing to remove the condition that soil-moving equipment be mechanized for it to be regulated.

Current § 301.81(b)(6) provides that, in addition to the articles specifically listed as regulated articles, any other products, articles, or means of conveyance shall be considered regulated when it has been determined by an inspector that they present a hazard of the spread of the imported fire ant, and the person in possession thereof has been so notified. In order to clarify the intent of that provision, we are proposing in § 301.81–2(f)(1) that, in addition to the articles specifically listed as regulated articles, any other article or means of conveyance will be considered regulated when an inspector determines that it presents a risk of spread of the imported fire ant due to its proximity to an infestation of the imported fire ant, and the person in possession has been notified that it is regulated.

"Imported Fire Ant" and "Infestation"

We are proposing to amend § 301.81–1 to revise the definition of "imported fire ant," which now includes all living *Solenopsis* species. As amended, the term would be used to denote only *Solenopsis invicta* Buren, *Solenopsis richteri* Forel, and their hybrids. Although other *Solenopsis* species exist in the United States, they are native to this country, and are not considered to be of serious concern to agriculture.

"Infestation" is defined in current § 301.81–1 as the presence of the imported fire ant or the existence of circumstances that make it reasonable to believe that the imported fire ant is present. This language could be interpreted to mean that, in all cases, an area or article is infested if one imported fire ant worker is discovered. While this interpretation is appropriate in some cases, in other cases it is not. For example, in the case of grass sod and plants with roots and soil attached, the presence of even one imported fire ant is a good indication of colonization. The soil media associated with these articles provided an ideal substrate for colonization, and movement of imported fire ant colonies on or with these articles is well-documented.

However, the presence of worker ants on other articles does not necessarily indicate that an infestation exists. Worker ants are sterile and are incapable of reproduction. On articles other than grass sod and plants with roots and soil attached, the presence of worker ants could be due to the intensive foraging behavior of the imported fire ant. The presence of a reproductive form of the imported fire ant would be necessary for an infestation to exist on these articles because new colony formation cannot be achieved by workers alone. Based upon our experience enforcing the regulations, the existence of workers alone does not necessarily indicate colonization. However, worker ants *are* required to ensure development of immature stages, which could become sexually reproductive males or females.

We, therefore, propose to revise the definition of "infestation" to provide that an infestation exists on articles or in an area where an imported fire ant queen or a reproducing colony of imported fire ants is present, except that for grass sod and plants with roots and soil attached, an infestation exist when any life form of imported fire ant is present. Under our proposal, a "reproducing colony" would be defined as a combination of one or more imported fire ant workers and one or more of the following immature imported fire ant forms: Eggs, larvae, or pupae.

Attachment of Certificates and Limited Permits

Section 301.81–7(a) of the current regulations provides that, if a certificate of limited permit is required for the interstate movement of regulated articles, the certificate must be securely attached to the outside of the container in which the articles are moved, or, in certain cases, may be attached to the waybill or other shipping documents. However, these provisions do not make it clear who is responsible for ensuring that the certificate or limited permit is securely attached. Therefore, we are specifying in § 301.81–9 of this proposal that the cosignor is responsible for ensuring that the required documents are securely attached. We are also proposing that the certificate or limited permit may be atached to the article itself in those cases where the article is not in a container.

Treatment Manual

The current regulations define "treatment manual" as the provisions contained in three manuals: "Manual of Administratively Authorized Procedures to be Used under the Imported Fire Ant Quarantine;" "Procedures for Applying Soil, Surface, and Foilage Treatments for Regulatory Purposes;" and "Fumigation Procedures Manual." This definition is no longer appropriate. The "Manual of Administratively Authorized Procedures to be Used under the Imported Fire Ant Quarantine" is no longer used. The procedures contained in the "Procedures for Applying Soil, Surface, and Foliage Treatments for Regulatory Purposes" are now included in a publication titled the "Imported Fire Ant Program Manual," and the procedures in the "Fumigation Procedures Manual" are part of the "Plant Protection and Quarantine Treatment Manual." Therefore, we propose to delete the definition of "treatment manual."

Procedures in the "Fumigation Procedures Manual," included in the "Plant Protection and Quarantine Treatment Manual," have been approved by the Director of the **Federal Register** for incorporation by reference, and this fact is noted where the "Plant Protection and Quarantine Treatment Manual" is referred to in the proposed regulations. Additionally, we are proposing to add an "Appendix" to the regulations that sets forth the treatment provisions of the "Imported Fire Ant Program Manual."

Other Definitions

We propose to delete all references to "compacted soil," including the definition of this term is current § 301.81–1, and to insert a definition for the term "noncompacted soil." We believe that using both terms in the regulations, as is done currently, is confusing. "Noncompacted soil" can serve as a medium for imported fire ant spread and must, therefore, be regulated. "Compacted soil" is impervious to the imported fire ant and need not be regulated.

Under our proposal, "noncompacted soil" would be defined as soil that can be removed from an article by brisk brushing or washing with water under normal city water pressure. We would define normal city water pressure as being "at least 4 gallons per minute at 40-to-50 pounds per square inch through a ½ inch orifice." This is the national standard for pipes used for outside hose fittings.

Under the current regulations, soil is defined as "that part of the upper layer of the earth in which plants can grow." However, this definition does not encompass other materials that may become mixed with the material currently defined as "soil." Therefore, we are proposing to revise the definition of soil to mean "any non-liquid combination of organic and/or inorganic materials in which plants can grow."

For purposes of clarity, we are proposing to revise the definition of "moved" to make it read instead as part of a definition of "movemnt," and are proposing to make several changes to the current definition. The current definition of "moved" makes reference to transportation by a "common carrier." Because transportation by a common carrier falls under other forms of movement included in the definition, this reference is superfluous. We are, therefore, proposing to remove it. We are also proposing to amend the definition to make it clear that "movement" includes "aiding, abetting, inducing, or causing to be moved."

The current definition of "State" is incomplete because it does not contain a reference to "possessions of the United States." We are proposing to amend the definition to add that reference.

We are also proposing to amend the definition of "Certificate" to clarify that a certificate may be issued by a person operating under a compliance agreement, as well as by an inspector.

Permits

Under the regulations, regulated articles may be moved interstate from a quarantined area if they are accompanied by a certificate or a permit. These documents are issued if the article meets certain requirements to ensure that the imported fire ant does not spread. A permit is more restrictive than a certificate, in that it imposes certain conditions on the purpose or destination of the movement, whereas a regulated article with a certificate may be moved anywhere for any purpose. The regulations in current § 301.81–4 authorize the use of three types of interstate movement permits—restricted destination permits, scientific permits, and limited permits. However, for the sake of simplicity, all of the permits have now been combined into one, so that the limited permit also encompasses the uses of the other two. Requirements for obtaining permits and for moving regulated articles remain unchanged. We are therefore proposing to remove the provisions in the imported fire ant regulations governing restricted destination permits and scientific permits, including the definitions of those two permits.

Compliance Agreements

Section 301.81–5 of the current regulations sets forth provisions regarding compliance agreements between APHIS and other persons. The regulations provide that "any person

engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles" under the regulations. However, it appears that it is unnecessarily limiting to restrict the availability of compliance agreements to persons engaged in business. Therefore, we are proposing to revise the regulations to remove the requirement that a person be in business to enter into a compliance agreement.

Although we do not believe it necessary for a person to be in business to enter into a compliance agreement, we do believe that the effectiveness of a compliance agreement depends on a person's understanding of, and willingness and ability to follow, the regulations. We, therefore, propose in § 301.81–6 that a compliance agreement may be entered into only by those persons who review with an inspector each stipulation of a compliance agreement, have facilities and equipment to carry out disinfestation procedures or application of chemical materials in accordance with the "Imported Fire Ant Program Manual," and have training and certification as required by the Federal Insecticide, Fungicide, and Rodenticide Act, to carry out disinfestation procedures or application of chemical materials.

The current definition of "compliance agreement" indicates that it is a written agreement we enter into with a person engaged in growing, handling, or moving regulated articles. However, our authority extends only to those regulated articles that are moved interstate. We are, therefore, proposing to revise the definition of "compliance agreement" to make that clear.

Interstate Movement

One of the conditions in current § 301.81–3(a)(2)(v) for certain interstate movement of regulated articles through quarantined areas is that the articles be "safeguarded" against infestation while in the quarantined areas. We are proposing to clarify the meaning of the word "safeguarded" by providing instead that the regulated article must either be moved through the quarantined area (without stopping except for refueling, or for traffic conditions, such as traffic lights or stop signs), or have been stored, packed, or packed in locations inaccessible to the imported fire ant, or in locations that have been treated in accordance with the "Imported Fire Ant Program Manual," as set forth in the appendix to the proposed regulations, while in or moving through any quarantined area.

Notification Requirements

Current § 301.81–6 requires persons seeking certification and other services to contact an inspector "as far in advance as possible." We believe that this wording is vague. Therefore, in proposed § 301.81–8, we would require that an inspector be notified of the need for certification or other service at least 48 hours before the service is needed, so that the inspector can properly schedule the services requested.

Miscellaneous

We are proposing to remove all references to "Deputy Administrator," and to replace them with references to "Administrator," and are proposing to remove certain references to "Plant Protection and Quarantine Programs," and to replace them with references to "Animal and Plant Health Inspection Service." We are also proposing to remove the definitions of "Deputy Administrator" and "Plant Protection and Quarantine Programs," and are proposing to add definitions of "Administrator" and "Animal and Plant Health Inspection Service." The current regulations indicate that the Deputy Administrator, Plant Protection and Quarantine, APHIS is the official responsible for various decisions under the imported fire ant regulations. We are proposing to make the terminology changes noted above to indicate that the primary authority and responsibility for various decisions under these regulations belongs to the Administrator of the agency. We are also proposing to add two new footnotes as an aid to readers of the regulations.

Review of Existing Regulations

This proposed rule is part of the scheduled review of Subpart-Imported Fire Ant, to meet regulatory review requirements. Executive Order 12291 and Department Regulation 1512–1 require that agencies initiate reviews of currently effective rules to bring about the goal of reduction of regulatory burdens and to minimize impacts on small entities.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed regulations would remove hay and straw from the list of regulated articles, except for hay and straw that is stored in contact with the ground. Although this change would allow most hay and straw to be moved interstate without restriction, we do not believe it would cause any increase or decrease in the interstate movement of those materials. The experience of our inspectors has been that hay and straw, other than baled hay and straw stored in contact with the ground, poses little risk of infestation. Because of this negligible risk, certificates are currently easily obtainable under the current regulations for most hay and straw. Therefore, the effect of the proposed change would be that some persons would no longer need to request inspection to move their articles and the Department would conduct fewer inspections.

The current regulations exempt from the list of regulated articles houseplants grown in the home and not for sale. When that exemption was written, we intended that it cover all plants commonly considered houseplants, maintained indoors and not for sale. Because all such plants pose virtually no risk of infestation, they are currently permitted to move interstate without restriction. Therefore, our proposal to change the wording of the exemption from "houseplants grown in the home and not for sale" to "plants maintained indoors in a home or office environment and not for sale" would have no practical effect on which plants are regulated and would have no economic effect. Our other proposed changes would simplify and clarify current provisions, rather than substantively alter the existing regulations.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with

State and local officials. (See 7 CFR part 3015, subpart V).

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). Your written comments will be considered if you submit them to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. You should submit a duplicate copy of your comments to: (1) Chief, Regulatory Analysis and Development Staff, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Wasington, DC 20250.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Imported fire ant, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR part 301 would be amended as follows:

1. The authority citation for part 301, Subpart—Imported Fire Ant, would continue to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Part 301 would be amended by revising "Subpart—Imported Fire Ant," §§ 301.81 through 301.81–10, and adding an appendix, to read as follows:

Subpart—Imported Fire Ant

Sec.

Appendix to Subpart—Portion of "Imported Fire Ant Program Manual"

§ 301.81 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.

§ 301.81–1 Definitions.

In this part, the following definitions apply:

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture (APHIS).

Certificate. A document in which an inspector or a person operating under a compliance agreement affirms that a specified regulated article meets the requirements of this subpart and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

Imported fire ant. Living imported fire ants of the species *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, and hybrids of these species.

Infestation (infested). The presence of an imported fire ant queen or a reproducing colony of imported fire ants, except that on grass sod and plants with roots and soil attached, an infestation is the presence of any life form of the imported fire ant.

Inspector. An APHIS employee or other person authorized by the Administrator to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector affirms that a specified regulated article not eligible for a certificate is eligible for interstate movement only to a specified destination and in accordance with conditions specified on the permit.

Movement (moved). The act of shipping, transporting, delivering, or receiving for movement, or otherwise aiding, abetting, inducing or causing to be moved.

Noncompacted soil. Soil that can be removed from an article by brisk brushing or washing with water under normal city water pressure (at least 4 gallons per minute at 40-to-50 pounds per square inch through a ½ inch orifice).

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Reproducing colony. A combination of one or more imported fire ant workers and one or more of the following immature imported fire ant forms: eggs, larvae, or pupae.

Soil. Any non-liquid combination of organic and/or inorganic material in which plants can grow.

Soil-moving equipment. Equipment used for moving or transporting soil, including, but not limited to, bulldozers, dump trucks, or road scrapers.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.82–2 Regulated articles.

The following are regulated articles:

(a) Imported fire ant queens and reproducing colonies of imported fire ants.[1]

(b) Soil,[2] separately or with other articles, except potting soil that is shipped in original containers in which the soil was placed after commercial preparation.

(c) Baled hay and baled straw stored in direct contact with the ground;

(d) Plants and sod with roots and soil attached, except plants maintained indoors in a home or office environment and not for sale;

(e) Used soil-moving equipment, unless removed of all noncompacted soil; and

(f) Any other article or means of conveyance when:

(1) An inspector determines that it presents a risk of spread of the imported fire ant due to its proximity to an infestation of the imported fire ant; and

(2) The person in possession of the product, article, or means of conveyance has been notified that it is regulated under this subpart.

§ 301.81–3 Quarantined areas.

(a) The Administrator will quarantin : each State or each portion of a State that is infested.

(b) Less than an entire State will be listed as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate

[1] Permit and other requirements for the interstate movement of imported fire ants are contained in part 330 of this chapter.

[2] The movement of soil from Puerto Rico is subject to additional provisions in part 330 of this chapter.

movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by this subpart; and

(2) Designating less than the entire State as a quarantined area will prevent the spread of the imported fire ant.

(c) The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or inseparability from the infested locality for quarantine purposes, as determined by:

(1) Projections of spread of imported fire ant around the periphery of the infestation, as determined by previous years' surveys;

(2) Availability of natural habitats and host materials, within the uninfested acreage, suitable for establishment and survival of imported fire ant populations; and

(3) Necessity of including uninfested acreage within the quarantined area in order to establish readily identifiable boundaries.

(d) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraphs (a), (b), and (c) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area; thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated quarantined areas in paragraph (e) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(e) The areas described below are designated as quarantined areas:

Alabama

The entire State.

Arkansas

Ashley County. The entire county.
Bradley County. The entire county.
Calhoun County. The entire county.
Chicot County. The entire county.
Cleveland County. The entire county.
Columbia County. The entire county.
Dallas County. The entire county.
Desha County. That portion of the county west of U.S. Highway 65 and south of the south line of T. 10 S., including all of the incorporated city limits of Dumas.
Drew County. The entire county.
Grant County. That portion of the county south of the south line T. 5 S. and east of State Highway 167.
Hempstead County. That portion of the county south of Interstate 30, including all of the incorporated city limits of Hope.
Howard County. T. 9 and 10 S., R. 27 W.
Jefferson County. That portion of the county bounded by a line beginning at the intersection of the Jefferson-Grant County line and the southern boundary line of T. 5 S.; then east along this township line to its intersection with U.S. Highway 79; then northeast along this highway to its junction with State Highway 88; then southeast along this highway to its intersection with the eastern boundary line of R. 7 W; then south along this range line to its junction with Jefferson-Lincoln County line; then south and west along this county line to the Jefferson-Cleveland County line; then west along this county line to the Jefferson-Grant County line; then north along this county line to the point of beginning. The incorporated limits of Pine Bluff and Alteimer are included.
Lafayette County. The entire county.
Lincoln County. That portion of the county south of the south line T. 8 S.
Little River County. The entire county.
Miller County. The entire county.
Nevada County. That portion of the county south of the south line of T. 10 S., and the Little Missouri River.
Quachita County. The entire county.
Union County. The entire county.

Florida

The entire State.

Georgia

Appling County. The entire county.
Atkinson County. The entire county.
Bacon County. The entire county.
Baker County. The entire county.
Baldwin County. The entire county.
Banks County. That portion of the county within Georgia Militia Districts 208, 265, 448, 468, 912, 1206, 1210, and 1464.
Barrow County. The entire county.
Bartow County. The entire county.
Ben Hill County. The entire county.
Berrien County. The entire county.
Bibb County. The entire county.
Bleckley County. The entire county.
Brantley County. The entire county.
Brooks County. The entire county.
Bryan County. The entire county.
Bulloch County. The entire county.
Burke County. The entire county.
Butts County. The entire county.
Calhoun County. The entire county.
Camden County. The entire county.
Candler County. The entire county.
Carroll County. The entire county.
Charlton County. The entire county.
Chatam County. The entire county.
Chattachoochee County. The entire county.
Chattooge County. That portion of the county within Georgia Militia Districts 925, 961, 968, 1083, 1216, and 1484.
Cherokee County. That portion of the county within Georgia Militia District 817.
Clarke County. The entire county.
Clay County. The entire county.
Clayton County. The entire county.
Clinch County. The entire county.
Cobb County. The entire county.
Coffee County. The entire county.
Colquitt County. The entire county.
Columbia County. The entire county.
Cook County. The entire county.
Coweta County. The entire county.
Crawford County. The entire county.
Crisp County. The entire county.
Decatur County. The entire county.
De Kalb County. The entire county.
Dodge County. The entire county.
Dooly County. The entire county.
Dougherty County. The entire county.
Douglas County. The entire county.
Early County. The entire county.
Echols County. The entire county.
Effingham County. The entire county.
Elbert County. That portion of the county within Georgia Militia Districts 190, 191, 192, and 193.
Emanuel County. The entire county.
Evans County. The entire county.
Fayette County. The entire county.
Floyd County. That portion of the county within Georgia Militia districts 829, 855, 859, 919, 923, 924, 962, 1048, 1059, 1120, 1453, 1478, 1504, 1562, 1688, 1719, and 1822.
Forsyth County. That portion of the county within Georgia Militia districts 879, 1276, and 795.
Fulton County. The entire county.
Glascock County. The entire county.
Glynn County. The entire county.
Gordon County. That portion of the county within Georgia Militia Districts 849, 856, 973, 980, 1054, 1055, 1056, 1064, and 1595.
Grady County. The entire county.
Greene County. The entire county.
Gwinnett County. The entire county.
Hall County. That portion of the county within Georgia Militia Districts 413, 1270, and 1419.
Hancock County. The entire county.
Haralson County. The entire county.
Harris County. The entire county.
Heard County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Irwin County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jeff Davis County. The entire county.
Jeferson County. The entire county.
Jenkins County. The entire county.
Johnson County. The entire county.
Jones County. The entire county.
Lamar County. The entire county.
Lanier County. The entire county.
Laurens County. The entire county.
Lee County. The entire county.
Liberty County. The entire county.
Lincoln County. The entire county.
Long County. The entire county.
Lowndes County. The entire county.
Macon County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
McDuffie County. The entire county.
McIntosh County. The entire county.
Meriwether County. The entire county.
Miller County. The entire county.
Mitchell County. The entire county.

Monroe County. The entire county.
Montgomery County. The entire county.
Morgan County. The entire county.
Muscogee County. The entire county.
Newton County. The entire county.
Oconee County. The entire county.
Oglethorpe County. The entire county.
Paulding County. The entire county.
Peach County. The entire county.
Pierce County. The entire county.
Pike County. The entire county.
Polk County. The entire county.
Pulaski County. The entire county.
Putnam County. The entire county.
Quitman County. The entire county.
Randolph County. The entire county.
Richmond County. The entire county.
Rockdale County. The entire county.
Schley County. The entire county.
Screven County. The entire county.
Seminole County. The entire county.
Spalding County. The entire county.
Stewart County. The entire county.
Sumter County. The entire county.
Talbot County. The entire county.
Taliaferro County. The entire county.
Tattnall County. The entire county.
Taylor County. The entire county.
Telfair County. The entire county.
Terrell County. The entire county.
Thomas County. The entire county.
Tift County. The entire county.
Toombs County. The entire county.
Treutlen County. The entire county.
Troup County. The entire county.
Turner County. The entire county.
Twiggs County. The entire county.
Upson County. The entire county.
Walton County. The entire county.
Ware County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wheeler County. The entire county.
Whitfield County. That portion of the county within Georgia Militia Districts 627, 872, 1233, 1298, 1305, and 1433.
Wilcox County. The entire county.
Wilkes County. The entire county.
Wilkinson County. The entire county.
Worth County. The entire county.

Louisiana

The entire State.

Mississippi

Adams County. The entire county.
Alcorn County. The entire county.
Amite County. The entire county.
Attala County. The entire county.
Benton County. The entire county.
Bolivar County. That portion of the county lying south of the north line of T. 22 N.
Carroll County. The entire county.
Calhoun County. The entire county.
Chickasaw County. The entire county.
Choctaw County. The entire county.
Claiborne County. The entire county.
Clarke County. The entire county.
Clay County. The entire county.
Copiah County. The entire county.
Covington County. The entire county.
Forrest County. The entire county.
Franklin County. The entire county.
George County. The entire county.
Greene County. The entire county.
Grenada County. The entire county.
Hancock County. The entire county.
Harrison County. The entire county.
Hinds County. The entire county.
Holmes County. The entire county.
Humphreys County. The entire county.
Issaquena County. The entire county.
Itawamba County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Jefferson Davis County. The entire county.
Jones County. The entire county.
Kemper County. The entire county.
Lafayette County. The entire county.
Lamar County. The entire county.
Lauderdale County. The entire county.
Lawrence County. The entire county.
Leake County. The entire county.
Lee County. The entire county.
Leflore County. The entire county.
Lincoln County. The entire county.
Lowndes County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
Marshall County. That portion of the county lying south of the north line of T. 4 S.
Monroe County. The entire county.
Montgomery County. The entire county.
Neshoba County. The entire county.
Newton County. The entire county.
Noxubee County. The entire county.
Oktibbeha County. The entire county.
Panola County. That portion of the county lying east of the west line R. 7 W.
Pearl River County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Pontotoc County. The entire county.
Prentiss County. The entire county.
Rankin County. The entire county.
Scott County. The entire county.
Sharkey County. The entire county.
Simpson County. The entire county.
Smith County. The entire county.
Stone County. The entire county.
Sunflower County. That portion of the county lying south of the north line of T. 22 N.
Tallahatchie County. The entire county.
Tate County. That portion of the county lying east of the west line of R. 7 W.
Tippah County. The entire county.
Tishomingo County. The entire county.
Union County. The entire county.
Walthall County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wilkinson County. The entire county.
Winston County. The entire county.
Yalobusha County. The entire county.
Yazoo County. The entire county.

North Carolina

Anson County. That portion of the county bounded by a line beginning at the intersection of the Pee Dee River and State Secondary Road 1756; then southwest along this road to its intersection with State Secondary Road 1744; then south along this road to its intersection with State Secondary Road 1730; then west along this road to its intersection with State Secondary Road 1801; then south along this road to its intersection with U.S. Highway 74; then west along this highway to its intersection with the Anson-Union County line; then south along this county line to the North Carolina-South Carolina State line; then east along this State line to its intersection with the Pee Dee River; then north along this river to the point of beginning.
Beaufort County. The entire county.
Bladen County. The entire county.
Brunswick County. The entire county.
Carteret County. The entire county.
Columbus County. The entire county.
Craven County. The entire county.
Cumberland County. That portion of the county bounded by a line beginning at the intersection of the South River and the Cumberland-Bladen County line; then west along this county line to its intersection with the Cape Fear River; then north along this river to its intersection with U.S. Highway 301; then south along this highway to its intersection with State Secondary Road 1007 (Owens Drive); then northwest along this road to its intersection with U.S. Highway 401; then west along this highway to its intersection with the Cumberland-Hoke County line; then northwest along this county line to its intersection with the Fort Bragg Military reservation; then northeast along this line to its intersection with State Secondary Road 1610; then east along this road to its intersection with U.S. Highway 401; then north along this road to its intersection with State Secondary Road 1112; then southeast along this road to its merger with State Secondary Road 2807; then east along this road to its intersection with the Cape Fear River; then drawing a straight line from this intersection to the intersection of State Secondary Road 1720 and State Secondary Road 1719; then northeast and southeast along State Secondary Road 1719 to its intersection with U.S. Highway 301; then south along this highway to its intersection with State Secondary Road 1863; then east along this road to its intersection with Interstate 95; then east on U.S. Highway 13 to its intersection with State Secondary Road 1818; then southeast along this road to its intersection with State Secondary Road 1006; then northeast along this road to its intersection with the South River; then southeast along this river to the point of beginning.
Duplin County. That portion of the county bounded by a line beginning at the intersection of the Sampson-Duplin County line and State Secondary Road 1335; then east along this road to its junction with State Secondary Road 1301; then southeast along this road to its junction with State Secondary Road 1300; then east along this road to its junction with State Secondary Road 1004; then north along this road to its junction with State Secondary Road 1511; then northeast along this road to its junction with State Secondary Road 1306; then northeast along this road to its junction with State Highway 903; then north along this highway to its junction with the Lenoir-Duplin County line; then south along this county line to its junction with the Jones-Duplin County line; then south along this county line to its junction with the Onslow-Duplin County line;

then south along this county line to the Pender-Duplin County line; then west along this county line to the Sampson-Duplin County line; then north along this county line to the point of beginning.

Hoke County. That portion of the county bounded by a line beginning at the intersection of the Lumber River and State Secondary Road 1203; then east along this road to its intersection with State Secondary Road 1202; then northeast along this road to its intersection with North Carolina Highway 211; then southeast along this highway to its junction with U.S. Highway 401 Business; then east along this highway to its junction with North Carolina Highway 20; then southeast along this highway to its intersection with the Hoke-Robeson County line; then southwest along this county line to its intersection with the Lumber River; then north along this river to the point of beginning.

Hyde County. The entire county.

Jones County. The entire county.

Lenoir County. That portion of the county bounded by a line beginning at the intersection of the Duplin-Lenoir County line and State Highway 903; then north along this highway to its junction with State Highway 1151; then northeast along this highway to its junction with State Highway 55; then east along this highway to its intersection with State Secondary Road 1152; then north along this road to its junction with State Secondary Road 1308; then northeast along this road to its junction with State Secondary Road 1307; then northeast along this road to its junction with State Secondary Road 1324; then east along this road to its junction with U.S. Highway 70; then east along this highway to its junction with State Secondary Road 1546; then north along this road to its junction with State Secondary Road 1545; then north along this road to its junction with State Secondary Road 1544; then northwest along this road to its junction with State Secondary Road 1555; then northeast along this road to its junction with State Route 1001; then east along this route to its junction with U.S. Highway 258; then north along this highway to its intersection with the Greene-Lenoir County line; then east along this county line to the Pitt-Lenoir County line; then southeast along this county line to the Craven-Lenoir County line; then southwest along this county line to its junction with the Jones-Lenoir County line; then southwest along this county line to the Duplin-Lenoir County line; then north along this county line to the point of beginning.

Martin County. That portion of the county bounded by a line beginning at the intersection of State Secondary Road 1001 and the Beaufort-Martin County line; then northeast along this county line to its junction with State Secondary Road 1114; then east along this road to its intersection with State Secondary Road 1516; then northeast along this road to its junction with U.S. Highway 64; then east along this highway to its junction with the Washington-Martin County line; then south along this county line to its junction with the Beaufort-Martin County line; then west along this county line to the point of beginning.

New Hanover County. The entire county.

Onslow County. The entire county.

Pamlico County. The entire county.

Pender County. The entire county.

Pitt County. That portion of the county bounded by a line beginning at the intersection of the Greene-Pitt County line and State Secondary Road 1110; then east along this road to its junction with State Secondary Road 1113; then east along this road to its intersection with State Highway 11; then north along this highway to its intersection with State Highway 102; then east along this highway to its junction with State Secondary Road 1723; then north along this road to its junction with State Secondary Road 1700; then northeast along this road to its junction with State Highway 33; then along this highway to its junction with U.S. Highway 13; then north along this highway to its junction with State Highway 903; then east along this highway to its junction with State Secondary Road 1517; then east along this road to its junction with State Secondary Road 1538; then north along this road to its junction with State Secondary Road 1542; then east along this road to its junction with State Highway 30; then south along this highway to its junction with State Secondary Road 1555; then east along this road to its junction with State Secondary Road 1550; then north along this road to its junction with State Secondary Road 1552; then east along this road to its junction with the Beaufort-Pitt County line; then south along this county line to its intersection with the Craven-Pitt County line; then west along this county line to its intersection with the Lenoir-Pitt County line; then west along this county line to its intersection with the Greene-Pitt County line; then north along this county line to the point of beginning.

Richmond County. That portion of the county bounded by a line beginning at the junction of the Little River and the Pee Dee River; then northeast along the Little River to its junction with State Secondary Road 1148; then south along this road to its junction with State Secondary Road 1151; then northeast along this road to its junction with North Carolina 73; then southeast along this highway to its junction with U.S. Highway 220; then south along this highway to its junction with U.S. Highway 74; then southeast along this highway to its junction with the Richmond-Scotland County line; then south along this county line to its junction with the North Carolina-South Carolina State line; then west along this State line to its junction with the Pee Dee River; then north along this river to the point of beginning.

Robeson County. That portion of the county bounded by a line beginning at the intersection of the Hoke-Robeson County line and U.S. Highway 20; then east and northeast along this highway to its intersection with the Robeson-Bladen County line; then south along this county line to its junction with the Robeson-Columbus County line; then south along this county line to its junction with the North Carolina-South Carolina State line; then west along this State line to its junction with the Robeson-Scotland County line; then north and west along this county line to its junction with the Robeson-Hoke county line; then northeast and north along this county line to the point of beginning.

Sampson County. That portion of the county bounded by a line beginning at the intersection of the Cumberland-Sampson County line and State Secondary Road 1006; then east along this road to its intersection with State Secondary Road 1832; then southeast along this road to its junction with U.S. Highway 421; then south along this highway to its junction with State Highway 24; then east along this highway to its junction with U.S. Highway 701; then north along this highway to its junction with State Highway 403; then east along this highway to its intersection with the Duplin-Sampson County line; then south along this county line to its junction with the Pender-Sampson County line; then west along this county line to its junction with the Bladen-Sampson County line; then north along this county line to its junction with the Cumberland-Sampson County line; then north along this county line to the point of beginning.

Scotland County. That portion of the county bounded by a line beginning at the intersection of the Scotland-Richmond County line and U.S. Highway 74; then southeast along this highway to its junction with State secondary road 1319; then northeast along this road to its junction with State Secondary Road 1324; then north and east along this road to its junction with State Secondary Road 1412; then north along this road to its junction with the Scotland-Hoke county line; then south along this county line to its intersection with the Scotland-Robeson County line; then southwest along this county line to its junction with the North Carolina-South Carolina State line; then northwest along this State line to its junction with the Richmond-Scotland county line; then north along this county line to the point of beginning.

Tyrrell County. That portion of the county bounded by a line beginning at the intersection of the Washington-Tyrrell County line and U.S. Highway 64; then east along this highway to its intersection with the Dare-Tyrrell County line; then south along this line to its junction with the Hyde-Tyrrell County line; then west and south along this County line to its junction with the Washington-Tyrrell County line; then north along this county line to the point of beginning.

Union County. Beginning at a point where U.S. Highway 74 intersects the Union-Anson County line; then south along this county line to its junction with the North Carolina-South Carolina State line; then west along this State line to its junction with the Lancaster County line; then north and northwest along this county line to its intersection with the Mecklenburg-Union County line; then northeast along this county line to its intersection with U.S. Highway 74; then southeast and east along this highway to the point of beginning.

Washington County. That portion of the county bounded by a line beginning at the intersection of the Beaufort/Martin/Washington County lines; then northeast along the Martin-Washington County line to its intersection with U.S. Highway 64; then east along this highway to its junction with State Secondary Road 1126; then east along

this road to its junction with State Secondary Road 1155; then east along this road to its junction with State Secondary Road 1161; then east along this road to its intersection with the Tyrrell-Washington County line; then south along this county line to its junction with the Hyde-Washington County line; then west along this county line to its junction with the Beaufort-Washington County line; then west along this county line to the point of beginning.

Oklahoma

Bryan County. That portion of the county south of the north line of T. 5 S., R. 7, 8, and 9 E.

Love County. The entire county.

Marshall County. That portion of the county south of the north line of T. 6 S., R. 6, and 7 E.

McCurtain County. That portion of the county south of the north line of T. 7 S, R. 21, 22, 23, 24, 25, 26, and 27 E.

Puerto Rico

The entire State.

South Carolina

Abbeville County. That portion of the county bounded by a line beginning at the intersection of the Abbeville-McCormick County line and South Carolina Primary Highway 28; then north along this highway to its intersection with the Abbeville-Anderson County Line; then southwest along this county line to its junction with the Georgia State Line; then southeast along this State line to its junction with the Abbeville-McCormick County line; then northeast and east along this county line to the point of the beginning.

Aiken County. The entire county.
Allendale County. The entire county.
Bamberg County. The entire county.
Barnwell County. The entire county.
Beaufort County. The entire county.
Berkeley County. The entire county.
Calhoun County. The entire county.
Charleston County. The entire county.
Chesterfield County. The entire county.
Clarendon County. The entire county.
Chester County. The entire county.
Colleton County. The entire county.
Darlington County. The entire county.
Dillon County. The entire county.
Dorchester County. The entire county.
Edgefield County. The entire county.
Fairfield County. The entire county.
Florence County. The entire county.
Georgetown County. The entire county.
Greenwood County. The entire county.
Hampton County. The entire county.
Horry County. The entire county.
Jasper County. The entire county.
Kershaw County. The entire county.
Lancaster County. The entire county.
Lee County. The entire county.
Lexington County. The entire county.
Marion County. The entire county.
Marlboro County. The entire county.
McCormick County. The entire county.
Newberry County. The entire county.
Orangeburg County. The entire county.
Richland County. The entire county.
Saluda County. The entire county.
Sumter County. The entire county.
Union County. The entire county.
Williamsburg County. The entire county.

Tennessee

Hardeman County. That portion of the county south and east of a line that follows U.S. Highway 64 from the east side of the county to the city of Bolivar, then follows State Highway 18 from the city of Bolivar to the point that it exits the county near the town of Grand Junction.

Hardin County. That portion of the county lying south of latitude 35 degrees, 20 minutes.

McNairy County. That portion of the county lying south of latitude 35 degrees, 15 minutes.

Texas

Anderson County. The entire county.
Angelina County. The entire county.
Aransas County. The entire county.
Atascosa County. The entire county.
Austin County. The entire county.
Bandera County. The entire county.
Bastrop County. The entire county.
Bee County. The entire county.
Bell County. The entire county.
Bexar County. The entire county.
Blanco County. The entire county.
Bosque County. The entire county.
Bowie County. The entire county.
Brazoria County. The entire county.
Brazos County. The entire county.
Burleson County. The entire county.
Burnet County. The entire county.
Caldwell County. The entire county.
Calhoun County. The entire county.
Camp County. The entire county.
Cass County. The entire county.
Chambers County. The entire county.
Cherokee County. The entire county.
Collin County. The entire county.
Colorado County. The entire county.
Comal County. The entire county.
Comanche County. The entire county.
Cooke County. The entire county.
Coryell County. The entire county.
Dallas County. The entire county.
Denton County. The entire county.
De Witt County. The entire county.
Duval County. That portion of the county within a 3 mile radius of the intersection of State Highway 44 and State Highway 359.
Eastland County. The entire county.
Edwards County. The entire county.
Ellis County. The entire county.
Erath County. The entire county.
Falls County. The entire county.
Fannin County. The entire county.
Fayette County. The entire county.
Fort Bend County. The entire county.
Franklin County. The entire county.
Freestone County. The entire county.
Frio County. The entire county.
Galveston County. The entire county.
Gillespie County. The entire county.
Goliad County. The entire county.
Gonzales County. The entire county.
Grayson County. The entire county.
Gregg County. The entire county.
Grimes County. The entire county.
Guadalupe County. The entire county.
Hamilton County. The entire county.
Hardin County. The entire county.
Harris County. The entire county.
Harrison County. The entire county.
Hays County. The entire county.
Henderson County. The entire county.
Hill County. The entire county.
Hood County. The entire county.
Hopkins County. The entire county.
Houston County. The entire county.
Hunt County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Jim Wells County. The entire county.
Johnson County. The entire county.
Karnes County. The entire county.
Kaufman County. The entire county.
Kendall County. The entire county.
Kerr County. The entire county.
Kimble County. That portion of the county bounded by a line beginning at a point where U.S. Highway 290 intersects the Kimble-Gillespie County line; then southerly along this county line to its junction with the Kimble-Kerr County line; then westerly along this county line to its intersection with U.S. Interstate Highway 10; then northwesterly along this highway to its intersection with U.S. Highway 83 and U.S. Highway 377; then northerly along these highways to the intersection of these highways; then easterly and northeasterly on U.S. Highway 377 to its intersection with the Kimble-Menard County line; then easterly along this line to its junction with the Kimble-Mason County line; then southerly and easterly along this county line to its junction with the Kimble-Gillespie County line; then southerly along this county line to the point of beginning, excluding the town of London.
Kleberg County. The entire county.
Lampasas County. The entire county.
Lavaca County. The entire county.
Lee County. The entire county.
Leon County. The entire county.
Liberty County. The entire county.
Limestone County. The entire county.
Live Oak County. The entire county.
Llano County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
Mason County. That portion of the county bounded by a line beginning at the intersection of Texas Ranch Road 152 and the Mason-Llano County line; then south along this county line to its junction with the Mason-Gillespie County line; then west along this county line to its junction with Texas Ranch Road 783; then north along this road to its junction with U.S. Highway 87; then southeast along this highway to its intersection with Texas Ranch Road 152; then north along this highway to the point of beginning.
Matagorda County. The entire county.
McClennan County. The entire county.
McMullen County. The entire county.
Medina County. The entire county.
Midland County. That portion of the county bounded by a line beginning at a point where U.S. Highway 80 intersects the Midland-Ector County line; then northerly along this county line to its junction with the Midland-Andrews County line; then easterly along this county line and including the Martin-Midland County line to its junction with U.S. Highway 80-Interstate 20; then southwesterly along U.S. Highway 80 to the point of beginning.
Milam County. The entire county.

Montgomery County. The entire county.
Morris County. The entire county.
Nacogdoches County. The entire county.
Navarro County. The entire county.
Newton County. The entire county.
Nueces County. The entire county.
Orange County. The entire county.
Panola County. The entire county.
Parker County. The entire county.
Polk County. The entire county.
Rains County. The entire county.
Real County. The entire county.
Refugio County. The entire county.
Robertson County. The entire county.
Rockwall County. The entire county.
Rusk County. The entire county.
Sabine County. The entire county.
San Augustine County. The entire county.
San Jacinto County. The entire county.
San Patricio County. The entire county.
Shelby County. The entire county.
Smith County. The entire county.
Somervell County. The entire county.
Tarrant County. The entire county.
Taylor County. The entire county.
Titus County. The entire county.
Tom Green County. The entire county.
Travis County. The entire county.
Trinity County. The entire county.
Tyler County. The entire county.
Upshur County. The entire county.
Uvalde County. The entire county.
Van Zandt County. The entire county.
Victoria County. The entire county.
Walker County. The entire county.
Waller County. The entire county.
Washington County. The entire county.
Webb County. That portion of the county lying within the corporate city limits of the city of Laredo.
Wharton County. The entire county.
Wichita County. The entire county.
Williamson County. The entire county.
Wilson County. The entire county.
Wise County. The entire county.
Wood County. The entire county.
Young County. Those portions of the county within a 3 mile radius from the intersection of Farm to Market Road 1287 and State Highway 16, and within a 3 mile radius from the intersection of Farm to Market Road 210 and State Highway Spur 132.

§ 301.81–4 Interstate movement of regulated articles from quarantined areas.

(a) Any regulated article may be moved interstate from a quarantined area into or through an area that is not quarantined only if moved under the following conditions:

(1) With a certificate or limited permit issued and attached in accordance with §§ 301.81–5 and 301.81–9 of this subpart;

(2) Without a certificate or limited permit, provided that each of the following conditions is met:

(i) The regulated article was moved into the quarantined area from an area that is not quarantined.

(ii) The point of origin is indicated on a waybill accompanying the regulated article;

(iii) The regulated article is moved through the quarantined area (without stopping except for refueling, or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or parked in locations inaccessible to the imported fire ant, or in locations that have been treated in accordance with the methods and procedures prescribed in the appendix to this subpart ("Regulatory Procedures"), while in or moving through any quarantined area; and

(iv) The article has not been combined or commingled with other articles so as to lose its individual identity; or

(3) Without a certificate or limited permit provided the regulated article is a soil sample being moved to a laboratory approved by the Administrator [3] to process, test, or analyze soil samples.

(b) Inspectors are authorized to stop any person or means of conveyance moving in interstate commerce they have probable cause to believe is moving regulated articles, and to inspect the articles being moved and the means of conveyance. Articles found to be infested by an inspector, and articles not in compliance with the regulations in this subpart, may be seized, quarantined, treated, subjected to other remedial measures, destroyed, or otherwise disposed of. Any treatments will be in accordance with the methods and procedures prescribed in the appendix to this subpart ("Regulatory Procedures"), or in accordance with the methods and procedures prescribed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For full identification of this standard, see § 300.1 of this chapter, "Materials incorporated by reference."

§ 301.81–5 Issuance of a certificate or limited permit.

(a) An inspector [4] or person operating under a compliance agreement will issue a certificate for the interstate movement of a regulated article approved under such compliance agreement if he or she determines that the regulated article:

(1) Is eligible for unrestricted movement under all other applicable federal domestic plant quarantines and regulations;

(2) Is to be moved in compliance with any emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the spread of the imported fire ant; [5] and

(3)(i) Is free of an imported fire ant infestation, based on his or her visual examination of the article;

(ii) Has been grown, produced, manufactured, stored, or handled in a manner that would prevent infestation or destroy all life stages of the imported fire ant; or

(iii) Has been treated in accordance with methods and procedures prescribed in the appendix to this subpart ("Regulatory Procedures").

(b) An inspector will issue a limited permit for the interstate movement of a regulated article not eligible for a certificate if the inspector determines that the regulated article:

(1) Is to be moved interstate to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the imported fire ant because the imported fire ant will be destroyed by the specified handling, utilization, or processing;

(2) Is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the spread of the imported fire ant; and

(3) Is eligible for interstate movement under all other federal domestic plant quarantines and regulations applicable to the regulated article.

(c) An inspector shall issue blank certificates to a person operating under a compliance agreement (in accordance with § 301.81–6 of this subpart) or authorize reproduction of the certificates on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of paragraph (a) of this section.

§ 301.81–6 Compliance agreements.

Persons who grow, handle, or move regulated articles interstate may enter into a compliance agreement [6] if such

[3] Criteria that laboratories must meet to become approved to process, test, or analyze soil, and the list of currently approved laborstories, may be obtained from the Administrator, c/o Domestic and Emergency Operations, PPQ, APHIS, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

[4] Inspectors are assigned to local offices of APHIS, which are listed in local telephone directories. Information on local offices may also be obtained from the Administrator, c/o Domestic and Emergency Operations, PPQ, APHIS, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

[5] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) authorizes the Secretary of Agriculture to impose emergency measures necessary to prevent the spread of plant pests new to, or not widely prevalent or distributed within and throughout, the United States.

[6] Compliance agreements may be initiated by contacting a local office of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers

Continued

persons review with an inspector each stipulation of the compliance agreement, have facilities and equipment to carry out disinfestation procedures or application of chemical materials in accordance with the "Imported Fire Ant Program Manual," as set forth in the Appendix to this subpart, and are trained and certified as required by the Federal Insecticide, Fungicide, and Rodenticide Act (86 Stat. 983; 7 U.S.C. 136b). Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

§ 301.81-7 Cancellation of a certificate, limited permit, or compliance agreement.

Any certificate, limited permit, or compliance agreement may be cancelled orally or in writing by an inspector whenever the inspector determines that the holder of the certificate or limited permit, or the person who has entered into the compliance agreement, has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing within 20 days of oral notification of the cancellation. Any person whose certificate, limited permit, or compliance agreement has been cancelled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve any conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, stating the reasons for the decision.

§ 301.81-8 Assembly and inspection of regulated articles.

(a) Persons requiring certification or other services must request the services from an inspector [7] at least 48 hours before the services are needed.

(b) The regulated articles must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.81-9 Attachment and disposition of certificates and limited permits.

(a) The consignor must ensure that the certificate or limited permit authorizing interstate movement of a regulated article is, at all times during interstate movement, attached to:

(1) The outside of the container encasing the regulated article;

(2) The article itself, if it is not in a container; or

(3) The consignee's copy of the accompanying waybill: *Provided,* That the descriptions of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing interstate movement of a regulated article to the consignee at the shipment's destination.

§ 301.81-10 Costs and charges.

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services. The United States Department of Agriculture will not be responsible for any other costs or charges.

Appendix to Subpart—Portion of "Imported Fire Ant Program Manual" [1]

III. Regulatory Procedures

A. *Instructions to Inspectors.* Inspectors must know and follow instructions in this manual, the PPQ Treatment Manual, the pesticide label, and exemptions (Section 18 or 24c of FIFRA) for the treatment or other procedures used to authorize the movement of regulated articles. These will serve as a basis for explaining such procedures to persons interested in moving articles affected by the quarantine. Inspectors shall furnish complete information to anyone interested in moving regulated articles.

If there are questions concerning a particular treatment, contact your supervisor.

B. *Authorized chemicals.* The following chemicals are authorized for the treatment of regulated articles under the IFA quarantine:

INSECTICIDES
AMDRO®
Bifenthrin
Chlorpyrifos (Dursban®)
Diazinon
LOGIC®

C. *Approved Treatments.*

1. Equipment—Used Soil-Moving.

Methods: Used soil-moving equipment is eligible for movement when an inspector determines that one of the following procedures has been done:

a. It has been brushed free of noncompacted soil;

b. It has been washed free of noncompacted soil; or

c. Noncompacted soil has been removed with air pressure equipment using compressors designed specifically for this purpose. Such compressors must provide free air delivery of no less than 30 cubic feet per minute at 200 pounds per square inch.

Certification Period: As long as kept free of noncompacted soil.

Limitations: Regardless of the type of cleaning equipment used, all debris and noncompacted soil must be removed unless it is steam-heated by a "steam jenny" to disinfect the articles. Used soil-moving equipment, such as bulldozers, dirt pans, motor graders, and draglines, are difficult to clean sufficiently to eliminate pest risk.

Precaution: Steam may remove loose paint and usually is not recommended for use on equipment with conveyor belts and rubber parts.

2. Hay and Straw.

Baled hay and straw stored in direct contact with the ground is ineligible for movement.

3. Plants—Balled or in Containers

a. Emulsifiable chlorpyrifos

Material: Emulsifiable chlorpyrifos—Immersion and drench treatments (post-harvest): any Environmental Protection Agency (EPA) registered formulation is acceptable.

Dosage:

Material	To make one gallon	To make 100 gallons
Chlorpyrifos	4.72 ml (0.16 fl. oz)	472 ml (16 fl. oz).
1 lb a.i./gal Water	3.78 liters (1 gallon)	378.5 liters 100 gallons).
Chlorpyrifos	2.36 ml (0.08 fl. oz)	236 ml (8 fl. oz).
2 lb a.i./gal Water	3.78 liters (1 gallon) (100 gallons).	378.5 liters
Chlorpyrifos	1.18 ml (0.04 fl. oz)	118 ml (4 fl. oz).
4 lb a.i./gal Water	3.78 liters (1 gallon)	378.5 liters. (100 gallons).

of local offices of Plant Protection and Quarantine may also be obtained from the Administrator, c/o Domestic and Emergency Programs, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

[7] See footnote 4 to § 301.81-5(a).

[1] A copy of the entire "Imported Fire Ant Program Manual" may be obtained from the Administrator, c/o, Domestic and Emergency Operations, PPQ, APHIS, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Exposure Period: Plants can be certified immediately upon completion of treatment.

Certification Period: 30 days

Precautions: Dwarf yaupon may show phytotoxicity to chlorpyrifos.

b. Bifenthrin

Material: Bifenthrin—drench or immersion of containerized nursery stock and balled nursery stock; topical application to 3 or 4 quart containerized nursery stock followed by irrigation with water.

Dosage: Dosage rate is 25 ppm. The amount of formulation needed to achieve 25 ppm varies with the bulk density of the soil or potting media. Follow label directions to calculate the amount of formulation needed.

Exposure Period: Plants can be certified immediately upon completion of the treatment.

Certification Period: 180 days

c. General requirements for emulsifiable chlorpyrifos and bifenthrin

Conditions and Type of Soil: Any friable soil may be treated.

Method A—Immersion

Equipment:

1. A watertight container for mixing the treating solutions.

2. Open-top, watertight container sufficiently large to accommodate the treating solution and plants.

Procedure: Locate immersion tank in well-ventilated covered place. Do not remove burlap wrap or plastic containers with drain holes prior to immersion. Immerse soil balls and containers, singly or in groups so that soil is completely covered by solution. Plants must remain in solution until bubbling ceases. Plant balls should have space between them when grouped in trays, baskets, or other dipping containers. After removal from dip, plants may be set on drainboard until adequately drained.

Thorough saturation of the plant balls or containers with the insecticide solution is essential.

As treating progresses, freshly prepared treating mixture should be added to maintain liquid at immersion depth. Dispose of tank contents 8 hours after mixing. Clean tank before recharging. Disposal must comply with State and local regulations.

Precautions: Runoff of the solution from the treatment area should not be permitted. Excess solution (and used solution) must be disposed of in accordance with State and local regulations.

Method B—Drench

Equipment:

1. A large capacity bulk mixing tank, either pressurized or gravity-flow for mixing and holding the insecticide solution.

2. Properly equipped hoses and watering nozzles which can be attached to the mixing tank and used to thoroughly saturate the plant balls with the insecticide solution.

Procedure:

1. Plants Balled with Burlap—Apply the bifenthrin or chlorpyrifos solution as a substitute for plain water to the plants during the routine watering activities. Do not remove burlap wrap from plants prior to treatment. *Treat plants singly or in groups with the bifenthrin or chlorpyrifos solution to the point of runoff on a twice daily schedule for 3 consecutive days.*

The above treatment should be carried out in a well-ventilated covered place normally used to maintain plants prior to shipment. The treatment will be enhanced by adding any agricultural wetting agent such as Ortho-77, Tronic, Tecowet, etc., to the chlorpyrifos solution at the labeled rate (usually one-half pint per 100 gallons of water).

2. Containerized Plants—Apply the bifenthrin or chlorpyrifos solution *to the point of saturation one time only.* The volume of the treating solution must be at least ⅕ (20%) of the volume of the container.

Precautions: Thorough saturation of the plant balls or containers with the insecticide solution is essential. Runoff of the solution from the treatment area should not be permitted. Excess solution (and used solution) must be disposed of in accordance with State and local regulations.

Method C—Topical Application

Apply bifenthrin according to the label instructions for topical application. The method may be used only with nursery stock in 3 and 4 quart containers. Penetration of the pesticide in larger containers does not provide sufficient residual activity.

Irrigate all treated containers with 1.5 inches of water following application.

Precautions: Runoff of the solution from the treatment area should not be permitted. Excess solution (and used solution) must be disposed of in accordance with State and local regulations.

4. Imported-Fire-Ant-Free Nursery—Containerized Plants Only.

This detection, control, exclusion, and enforcement program is designed to keep nurseries free of the imported fire ant and provides a basis to certify containerized nursery stock for interstate movement.

Participating regulated establishments must be operating under a compliance agreement. Such compliance agreements shall state the specific requirements that a shipper agrees to follow to move plants in accordance with the requirements of the program. Certificates and a nursery identification number may be issued to the nursery for use on shipments of regulated articles.

Detection:

A successful treatment program depends upon early detection of imported fire ant colonies. Nursery owners are required to survey visually their entire premises twice monthly for the presence of imported fire ants.

Nurseries participating in this program will be inspected by Federal or State inspectors at least twice per year. More frequent inspections may be necessary depending upon imported fire ant infestation levels immediately surrounding the nursery, the thoroughness of nursery management in maintaining imported-fire-ant-free premises, and the number of previous detections of imported fire ants in or near containerized plants. Inspections by Federal and State inspectors should be more frequent just before and during the peak shipping season. Any nurseries determined during nursery inspections to have imported fire ant colonies must be immediately treated to the extent necessary to eliminate the colonies.

Control:

Nursery plants that are shipped under this program must originate in a nursery free of imported fire ant. Nursery owners must implement a treatment program with registered bait and contact insecticides. The premises, including growing and holding areas, must be maintained free of the imported fire ant. As part of this treatment program, all exposed soil surfaces (including sod and mulched areas) on property where plants are grown, potted, stored, handled, loaded, unloaded, or sold must be treated with a broadcast application of AMDRO® or LOGIC® baits at least once every six months. The first application is more effective when applied early in the spring. An early spring bait application provides control before alate queens are produced or have time to establish new colonies. Follow label directions for use.

When properly used, baits are between 80 percent and 90 percent effective. Follow-up treatments with a contact insecticide must be applied to eliminate all remaining colonies. Mound drench treatments with a registered formulation of chlorpyrifos or diazinon are approved. Follow label directions for use.

Exclusion:

Treatment of potting media with granular or wettable powder formulation of bifenthrin prior to planting is required. This treatment reduces the risk of infestation of containers by alate queens flying in from adjacent or nearby infested premises. The dosage rate is 50 ppm.

Apply this treatment according to the label instructions.

Mixing must be adequate to blend the required dosage of pesticide throughout the entire potting soil mixture.

To prevent the spread into a nursery free of the imported fire ant by newly introduced, infested nursery plants, all plants must be:

(a) Obtained from nurseries free of imported fire ant that are certified under a compliance agreement; or

(b) Treated with bifenthrin upon delivery in accordance with this imported fire ant regulatory treatment manual (III.C.3.b), and within 180 days be either:

(1) Repotted in treated potting soil media,

(2) Retreated with bifenthrin drench, immersion, or topical application (III.C.3.b) at 180 day intervals, or

(3) Shipped.

Enforcement:

The nursery owner shall maintain records of the nursery's surveys and treatments for the imported fire ant. These records shall be made available to State and Federal inspectors upon request.

If imported fire ants are detected in nursery stock during an inspection by a Federal or State inspector, issuance of certificates for movement shall be suspended until necessary treatments are applied and the plants and nursery premises are determined to be free of the imported fire ant. A Federal or State inspector may declare a nursery to be free of the imported fire ant upon reinspection of the premises. This inspection must be conducted no sooner than 30 days after treatment to ensure its effectiveness. During this period, certification may be based upon the drench

or immersion treatment provided in paragraph III.C.3. of this manual, titled "Plants—Balled or in Containers."

Upon notification by the department of agriculture in any State of destination that a confirmed imported fire ant infestation was found on a shipment from a nursery considered free of the imported fire ant, all shipments from that nursery shall be temporarily discontinued. An investigation by Federal or State inspectors will commence immediately to determine the probable source of the problem and to ensure that the problem is resolved. If the problem is an infestation, issuance of certification for movement on the basis of imported-fire-ant-free premises will be suspended until treatment and elimination of the infestation is completed. Reinstatement into the program will be granted upon determination that the nursery premises are free of the imported fire ant, and that all other provisions of this manual are being followed.

In cases where the issuance of certificates is suspended through oral notification, the suspension and the reasons for the suspension will be confirmed in writing within 20 days of the oral notification of the suspension. Any person whose issuance of certificates has been suspended may appeal the decision, in writing, within 10 days after receiving the written suspension notice. The appeal must state all of the facts and reasons that the person wants the Administrator to container in deciding the appeal. A hearing may be held to resolve any conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

Violations of the quarantine shall be investigated by Federal or State inspectors and appropriate penalties will be assessed to discourage further violations.

This imported-fire-ant-free nursery program is not mandatory for movement of regulated articles. Plants, balled or in containers, may otherwise be certified for movement using the liquid chlorpyrifos or bifenthrin treatments described in paragraph III.C.3 of this manual, titled "Plants, Balled or in Containers." However, certification for movement under the imported-fire-ant-free nursery program will be granted only if all of the provisions of that program are followed.

Certification Period: Continuous as long as all provisions of the imported-fire-ant-free nursery program are followed.

5. Field Grown Woody Ornamentals (In-Field Treatment Prior to Harvest).

Materials: Granular chlorpyrifos (any granular formulation that is EPA registered) used in combination with:

AMDRO® *or*

LOGIC® fire ant bait.

Dosage: LOGIC® or AMDRO® at 1.5 lb bait/acre. Chlorpyrifos at 6.0 lb a.i./acre.

Method: Apply LOGIC® or AMDRO® only when ants are actively foraging (follow Environmental Protection Agency-approved label directions for use). Broadcast application with any type of equipment that can be calibrated to deliver 1.5 lb of bait per acre. Three to five days after the LOGIC® or AMDRO® application, apply granular chlorpyrifos broadcast at 6.0 lb a.i. per acre. Treatment area must extend at least 10 feet beyond the base of all plants that are to be certified.

Exposure period: 30 days. Plants can be certified 30 days after treatment.

Certification period: 12 weeks.

Special information: This in-field treatment is based on a sequential application of LOGIC® or AMDRO® followed by granular chlorpyrifos. The combination treatment is necessary since broadcast application of chlorpyrifos (or other short term residual insecticides) usually does not eliminate large mature IFA colonies, and no bait, including LOGIC® or AMDRO®, is capable of providing a residual barrier against reinfestation by new queens. Therefore, the LOGIC® or AMDRO® application will drastically reduce the IFA population while chlorpyrifos, applied approximately 5 days later, will destroy any remaining weakened colonies and also leave a residual barrier against reinfestation by new queens for at least 12 weeks.

6. Blueberries and Other Fruit and Nut Nursery Stocks.

Certain States have special local need labeling in accordance with section 24(c) of FIFRA for D-z-n® Diazinon AG–500 and D-z-n® Diazinon 50W, which PPQ will recognize as a regulatory treatment for containerized nonbearing blueberries and fruit and nut plants. Follow label directions for use.

7. Plants—Greenhouse Grown.

Greenhouse grown plants are certifiable if the inspector determines that the greenhouse is constructed of glass or plastic in such a way that IFA is physically excluded and cannot become established within the enclosure. No other treatment of the plants will be necessary if they are not exposed to infestation.

8. Grass—Sod.

Materials:

Granular chlorpyrifos

Material	Amount and dosage of material	Certification period
Chlorpyrifos (any granular formulation that is registered)	4.0 lb a.i./acre.	4 weeks (after exposure period has been completed).
Chlorpyrifos (any granular formation that is registered)	6.0 lb a.i./acre.	10 weeks (after exposure period has been completed).

Exposure Period: 48 hours.

Method:

1. Apply a single broadcast application of granular chlorpyrifos with ground equipment.

2. Immediately after treatment, water treated areas with at least ½ inch of water.

Chlorpyrifos wettable powder

Dursban® 50–WP: follow label directions for regulatory treatment for IFA.

9. Soil—Bulk.

Method: Bulk soil is eligible for movement when heated either by dry or steam heat after all parts of the mass have been brought to the required temperature.

Temperature: 150° F.

Certification Period: As long as protected from recontamination.

10. Soil Samples.

HEAT: 150° F

Certification Period. As long as protected from recontamination.

Method: Soil samples are eligible for movement when heated either by dry or steam heat after all parts of the mass have been brought to the required temperature.

COLD TEMPERATURE:

Temperatures	Exposure period
−10° F to −20° F	24 hours minimum.

Equipment: Any commercial cold storage, frozen food locker, or home freezer capable of rapidly reducing to and maintaining required temperature.

Procedure: Samples of soil will be placed in containers, such as plastic bags—one sample per bag. The containers will be arranged in the freezer in a manner to allow the soil samples to freeze in the fastest possible time. If desirable, the frozen samples may be shipped in one carton.

Certification Period: As long as protected from recontamination.

D. *Mitigative Measures.*

The following measures are required to minimize impact on the environment and human health. Any person requesting certification to authorize the movement of regulated articles must adhere to these measures where applicable.

1. All applicable Federal, State, and local environmental laws and regulations must be followed.

2. Safety equipment and clothing, as specified by the label instructions, must be used and worn during treatments and during inspections.

3. Safety practices shall be communicated, and regulated establishment managers must require that on-the-job safety practices be followed.

4. All pesticides must be applied, handled, stored, and used in accordance with label instructions.

5. Empty pesticide containers must be disposed of in accordance with Federal and State regulations.

6. Pesticide remaining in containers after completion of an application must be retained and disposed of in accordance with label instructions and Federal and State regulations.

7. Oral or written warning must be provided to workers and the general public, indicating pesticide application areas during application and appropriate reentry periods.

8. Owners/managers of regulated properties must take precautions to limit

access by the public, livestock, and wildlife to treated areas.

9. Accidental spill or water runoff of liquid or granular pesticides leading to potential contamination of ground and surface waters must be minimized by appropriate operating procedures. Catchment facilities (temporary or permanent) adequate to prevent contamination of ground and surface water are necessary in loading areas where liquid drenches and immersions are applied.

10. An environmental monitoring plan, including monitoring procedures, must be implemented by APHIS. Monitoring must be conducted to determine if additional mitigative measures are necessary.

Done in Washington, DC, this 24th day of October 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-26085 Filed 10-29-91; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 984

[FV-91-435-PR]

Expenses and Assessment Rate for Walnuts Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 984 for the 1991-92 marketing year established under the walnut marketing order. Funds to administer this program are derived from assessments on handlers. This action is needed in order for the Walnut Marketing Board (Board), the agency responsible for the local administration of the order, to have sufficient funds to meet the expenses of operating the program. This facilitates program operations. An annual budget of expenses is prepared by the Board and submitted to the U.S. Department of Agriculture (Department) for approval.

DATES: Comments must be received by November 12, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Richard Lower, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2524-S, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 984 (7 CFR part 984), as amended, regulating the handling of walnuts grown in California. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 65 handlers of walnuts grown in California who are subject to regulation under the walnut marketing order and approximately 5,000 producers of walnuts in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of walnut producers and handlers may be classified as small entities.

The walnut marketing order requires that the assessment rate for a particular marketing year shall apply to all assessable walnuts handled from the beginning of such year. An annual budget of expenses is prepared by the Board and submitted to the Department for approval. The Board consists of handlers, producers, and a non-industry member. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of walnuts. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Board shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Board will have funds to pay its expenses.

The Board met on September 13, 1991, and unanimously recommended 1991-92 marketing order expenditures of $1,804,116 and an assessment rate of $0.0085 per kernelweight pound of walnuts. Assessment income for the 1991-92 marketing year is estimated at $1,912,500 based on a merchantable supply of 225,000,000 kernelweight pounds of walnuts. Comparative actual expenditures in 1990-91 were $1,472,633 and the assessment rate was $0.0088 per kernelweight pound of walnuts. Estimated assessment income in 1990-91 was $1,711,370 based on a merchantable supply of 194,474,000 kernelweight pounds of walnuts.

Major budget categories for the 1991-92 marketing year are $848,000 for the domestic market research and development program, $460,528 for walnut production research, $134,300 for administrative and office salaries, and $43,400 for walnut crop estimates. Comparable actual expenditures for the 1990-91 marketing year were $690,817, $384,230, $126,832, and $40,000, respectively. The domestic market research and development program expenses of $848,000 are due to the Board's continued emphasis on expansion and improvement of existing markets as well as the creation of new markets for California walnuts. The increase from $384,230 to $460,528 for walnut production research is due to six additional research projects that were recommended by the Board.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the

Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for the program needs to be expedited. The Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as follows:

1. The authority citation for 7 CFR part 984 continues to read as follows:

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

PART 984—WALNUTS GROWN IN CALIFORNIA

2. A new § 984.342 is added to read as follows:

§ 984.342 Expenses and assessment rate.

Expenses of $1,804,116 by the Walnut Marketing Board are authorized and an assessment rate of $0.0085 per kernelweight pound of merchantable walnuts is established for the 1991–92 marketing year ending on July 31, 1992. Unexpended funds from the 1990–91 fiscal year may be carried over as a reserve.

Dated: October 23, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–26073 Filed 10–29–91; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 91–044]

Change in Disease Status of Poland Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations by adding Poland to the list of countries declared to be free of foot–and–mouth disease. There have been no outbreaks of rinderpest in Poland for the past 70 years, and we have determined that foot–and–mouth disease has been eradicated there. We are also proposing to add Poland to the list of countries that, although declared free of rinderpest and foot–and–mouth disease, are subject to special restrictions on the importation of their meat and other animal products into the United States. This proposed revision would relieve certain prohibitions and restrictions on the importation into the United States, from Poland, of ruminants and swine, and fresh, chilled, and frozen meat of these animals.

However, Poland is not included in the lists of countries declared to be free of hog cholera and swine vesicular disease. Therefore, even if this proposal is adopted, the importation from Poland of swine and fresh, chilled, and frozen meat from swine would continue to be restricted because of these diseases.

DATES: Consideration will be given only to comments received on or before December 30, 1991.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91–044. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John Blackwell, Senior Staff Microbiologist, Import–Export Products Staff, VS, APHIS, USDA, room 756–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed, among other things, to prevent the introduction into the United States of rinderpest, foot–and–mouth disease, African swine fever, hog cholera, swine vesicular disease, and viscerotropic velogenic Newcastle disease.

Section 94.1(a)(1) of the regulations provides that rinderpest or foot–and–mouth disease exists in all countries of the world except those listed in § 94.1(a)(2), which are declared to be free of these diseases. We are proposing to add Poland to this list.

There have been no outbreaks of rinderpest in Poland since 1921. This has been confirmed by the Office of International Epizootics (OIE), in which Poland maintains membership. The OIE reports any outbreaks of this and other diseases in member countries. Foot–and–mouth disease was eradicated in Poland in April 1972. No further outbreaks of either disease have been discovered in Poland by animal health officials. In addition, it is believed that Poland has adequate controls to prevent the introduction and spread of rinderpest and foot–and–mouth disease.

We declare a country to be free of rinderpest and foot–and–mouth disease if there have been no cases of these diseases reported there for the previous 1–year period. Poland has applied to the U.S. Department of Agriculture (USDA) to be recognized as free of foot–and–mouth disease. The Animal and Plant Health Inspection Service has reviewed the documentation submitted by the Government of Poland in support of its request. A team of APHIS officials recently conducted an on–site evaluation of the animal health program in Poland in regard to the foot–and–mouth disease situation in that country. The evaluation consisted of a review of capability of the Polish veterinary services, laboratory and diagnostic procedures, disease reporting and surveillance procedures, vaccination practices, and the administration of laws and regulations to insure against the introduction into Poland of foot–and–mouth disease through the importation of animals, meats, and animal products.

Based on the information submitted to us by Poland's animal health authorities, we believe that Poland qualifies for listing in § 94.1(a)(2) of the regulations as a country declared free of rinderpest and foot–and–mouth disease. This action would remove the prohibition on the importation of live ruminants and fresh, chilled, and frozen meat of ruminants. Importations of live swine and fresh, chilled, or frozen meat from swine would continue to be restricted under 9 CFR part 94 since Poland has not been declared free of hog cholera and swine vesicular disease.

Special Restrictions

We also propose to add Poland to the list in § 94.11(a) of countries free of rinderpest and foot–and–mouth disease that are subject to special restrictions on the importation of their meat and other animal products into the United States. The countries listed in § 94.11(a) are subject to these special restrictions because they (1) supplement their national meat supply by importing fresh, chilled, or frozen meat of ruminants or

swine from countries in which rinderpest or foot-and-mouth disease exists; (2) have a common land border with countries in which rinderpest or foot-and-mouth disease exists; or (3) import ruminants or swine from countries in which rinderpest or foot-and-mouth disease exists under conditions less restrictive than would be acceptable for importation into the United States.

Poland has a common land border with Germany, Czechoslovakia, and the USSR, which are designated in § 94.1(a)(1) as countries in which rinderpest or foot-and-mouth disease exists. In addition, Poland imports live ruminants and swine from countries not recognized as free of foot-and-mouth disease under conditions less restrictive than would be acceptable for importation into the United States. Further, Poland supplements its national meat supply by the importation of fresh, chilled, and frozen meat of ruminants and swine from countries designated in § 94.1(a)(1) as countries in which rinderpest or foot-and-mouth disease exists. As a result, even though we propose to designate Poland as free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in Poland may be commingled with the meat and other animal products from a country in which rinderpest or foot-and-mouth disease exists, resulting in some risk of contamination.

Therefore, we are proposing that meat and other animal products of ruminants and swine, and the ship stores, airplane meals, and baggage containing these meat or animal products imported into the United States from Poland be subject to the restrictions specified in § 94.11 of the regulations.

Executive Order 12291 and Regulatory Flexibility Act

This proposal has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposal would remove the prohibition on the importation into the United States of live ruminants and fresh, chilled, and frozen meat of ruminants from Poland. Importations of live swine and fresh, chilled, or frozen meat from swine from Poland would continue to be restricted under 9 CFR part 94 since Poland has not been declared free of hog cholera and swine vesicular disease.

In 1988, Poland produced about 10 million head of cattle and exported about 563 thousand head of cattle to its traditional trading partners, mainly in Europe. Total exports of live animals from Poland represented less than 8 percent of world trade in live animals. In addition to live animals, Poland also exported about $178 million worth of fresh, chilled, and frozen meat in 1988. This represented about 0.8 percent of the total world exports of fresh, chilled, and frozen meat during that year.

In comparison, in 1987, the United States produced about 100 million head of cattle on approximately 1.2 million farms. The United States also exports 360 thousand live cattle to other countries annually, while it imports about 1.3 million cattle. Currently, bilateral trade between the United States and Poland represents a very small fraction of their respective total trade. The United States exported $302 million worth of goods and services to Poland in 1988, and, in return, it imported $418 million worth of goods and services. Both of these figures represent less than 1/10th of 1 percent of the total U.S. trade.

Based on available information, the Department does not anticipate a major increase in Polish exports of live ruminants or of fresh, chilled, and frozen meat to the United States as a result of this proposed rule. Since Poland is already trading in international markets, the addition of Poland to the list of countries declared free of rinderpest and foot-and-mouth disease is unlikely to change the competitive trade position of the United States. Furthermore, Poland is unlikely to disrupt established trade relationships with traditional European trading partners by diverting a significant amount of its exports of live ruminants or fresh, chilled, and frozen meat to the United States. Increases in imports of live animals from Poland are also highly unlikely because of high transportation costs.

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

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). Your written comments will be considered if you submit them to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. You should submit a duplicate copy of your comments to: 1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and 2) Clearance Officer, OIRM, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, African swine fever, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine vesicular disease.

Accordingly, 9 CFR part 94 would be amended as follows:

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

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a; 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) would be amended by adding "Poland," immediately after "Papua New Guinea,".

§ 94.11 [Amended]

3. In § 94.11, the first sentence in paragraph (a) would be amended by

adding "Poland," immediately after "Papua New Guinea,".

Done in Washington, DC, this 24th day of October, 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-26092 Filed 10-29-91; 8:45 am]
BILLING CODE 3410-30-F

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9 CFR Part 96

[Docket No. 89-018]

Signatures on Certificates Accompanying Foreign Animal Casings

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of animal casings by removing the requirement that certificates accompanying animal casings imported into the United States bear the signature of the national government official having jurisdiction over the health of animals in the country in which the casings originate. The signature of a government official at this high level appears to be unnecessary. We are also proposing to make several changes in the regulations to clarify the regulations. We believe that these changes would simplify the importation process for foreign animal casings, while adequately ensuring that foreign castings do not present a risk of introducing livestock diseases into the United States.

DATES: Consideration will be given only to comments received on or before December 30, 1991.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-018. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John H. Blackwell, Senior Staff Microbiologist, Import-Export Products Staff, VS, APHIS, USDA, room 758, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7834.

SUPPLEMENTARY INFORMATION:

Background

Animal casings are intestines, stomachs, esophagi, and urinary bladders from cattle, sheep, swine, or goats that are used to encase processed meats in food such as sausage. The regulations in 9 CFR part 96 (referred to below as "the regulations") govern the importation of animal casings into the United States to prevent the introduction of contagious livestock diseases.

The regulations require that animal casings imported into the United States be accompanied by a "Foreign Official Certificate for Animal Casings" (certificate), bearing two official signatures. One signature must be that of the national government official having jurisdiction over the health of animals in the country in which the casings originate (referred to below as the high government official). This official's jurisdiction with respect to the health of animals in the foreign country is comparable to the jurisdiction of the Secretary of the United States Department of Agriculture in the United States. The other official signature appearing on the certificate must be that of the official who actually issues the certificate, who may be any person authorized by the former official.

Our intention in requiring the signature of the high government official was to place responsibility for issuance of the certificate upon the foreign government through its appropriate high official. However, the signature of this individual is usually not original, but is a printed or "rubber stamp signature" placed on the certificate at the time of printing, in accordance with § 96.3(a) of the regulations. We have determined that the signature of this official is unnecessary, because it places no more responsibility upon the foreign government than does the signature of an official who is authorized by his or her government to issue the certificate. Generally, the high government official who signs the certificate never sees the casings. Requiring the high government official's signature, in fact, simply places an extra and needless regulatory burden upon the importer, and sometimes results in shipments of casings being held or returned because the signature was inadvertently left off the certificate. We are therefore proposing to remove the requirement for the high government official's signature.

The signature of the official authorized to issue the certificate would still be required. The government of the country exporting the animal casings would remain accountable for the accuracy and validity of the representations of the official authorized to issue the certificate. To clarify and, therefore, strengthen the requirements concerning this official's responsibilities, we are also proposing, to make the following changes in the regulations:

(1) Add a list of definitions under a new § 96.1.

(2) Remove the term "country in which the casings originate(d)," wherever it appears, and replace it with the term "country in which the animals were slaughtered and the casings were collected." This new wording would more accurately define the location where the casings are to be inspected and the certificate is to be signed.

(3) Require signatures on certificates to be original and remove language that allows printed or stamped signatures on certificates. These changes would make it clear that the signature of the individual issuing the certificate must be an original signature.

(4) Require that the individual who signs the certificate first inspect the casings.

(5) Require that the individual who signs the certificate be either (1) a veterinarian salaried by the national government of the country in which the animals were slaughtered and the casings were collected, and who is authorized by the national government to inspect casings and issue certificates; or (2) a non-government veterinarian authorized to issue the certificate by the national government of the country in which the animals were slaughtered and the casings were collected, if the certificate is endorsed by the government-salaried veterinarian described above. The endorsement of the government-salaried veterinarian would serve as the official endorsement of the national government, thereby assuring the Animal and Plant Health Inspection Service that the non-government veterinarian issuing the certificate was authorized to do so.

We believe that these changes in our requirements, together with the removal of the requirement for the signature of the high government official, would simplify the importation process for foreign animal casings, while adequately ensuring that foreign animal casings do not present a risk of introducing livestock diseases into the United States.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have

determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The group affected by this action would be importers of foreign animal casings. These importers are both large and small entities, and include brokers, casings plants, and sausage producers. Removing the requirement for the signature of the high government official having jurisdiction over animal health matters would remove a regulatory burden from these entities—a regulatory burden which, in some instances, has caused delays in the importation of animal casings.

Removing this burden would simplify the importation process for importers of animal casings, and remove the potential for shipments of animal casings to be delayed because the signature of the high government official was inadvertently left off the certificate. As a result, importers of animal casings could experience some economic benefit. The value of the economic benefit would not be significant in terms of the overall cost of importing the animal casings, however, since the actions we are proposing would simply remove one potential source of delay in the importation process.

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

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 0579–0015.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 96

Imports, Livestock and livestock products, Reporting and recordkeeping requirements, Transportation.

PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES

Accordingly, 9 CFR part 96 would be amended as follows

1. The authority citation for part 96 would be revised to read as follows:

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

§ 96.4 [Removed]

§§ 96.1–96.3 [Redesignated as §§ 96.2–96.4]

2. Section 96.4 would be removed; §§ 96.1 through 96.3 would be redesignated as §§ 96.2 through 96.4, respectively; and a new § 96.1 would be added to read as follows:

§ 96.1 Definitions.

Animal casings. Intestines, stomachs, esophagi, and urinary bladders from cattle, sheep, swine, or goats that are used to encase processed meats in foods such as sausage.

Department. The United States Department of Agriculture.

Import (imported, importation) into the United States. To bring into the territorial limits of the United States.

United States. All of the States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, American Samoa, and the territories and pssessions of the United States.

3. In redesignated § 96.2, the section heading and all text up to and including the colon would be revised to read as follows; and the text under the heading "FOREIGN OFFICIAL CERTIFICATE FOR ANIMAL CASINGS" would be amended by removing all text beginning with "(Signature)" and by adding the following text in its place:

§ 96.2 Certificate for animal casings.

(a) No animal casings shall be imported into the United States from any foreign country unless they are accompanied by a certificate signed by either (1) a veterianarian salaried by the national government of the country in which the animals were slaughtered and the casings were collected, and who is authorized by the national government to conduct casings inspections and issue certificates, and who has inspected the casings before issuing the certificate and determined that the casings meet the criteria described in the Foreign Official Certificate For Animal Casings; or (2) a non-government veterinarian authorized to issue the certificate by the national government of the country in which the animals were slaughtered and the casings were collected, who has inspected the casings before issuing the certificate and determined that the casings meet the criteria described in the Foreign Official Certificate For Animal Casings. A certificate issued by a non-government veterinarian is valid only if the certificate is endorsed by a veterinarian salaried by the national government of the country in which the animals were slaughtered and the casings were collected.

(b) All signatures on the certificate shall be original.

(c) The certificate shall bear the insignia of the national government of the country in which the animals were slaughtered and the casings were collected, and shall be in the following form:

* * * * *

Signature: _____
Official issuing the certificate. (Non-government veterinarian authorized to issue the certificate by the national government of the country in which the animals were slaughtered and the casings were collected.)
Official title: _____
Signature: _____
Official issuing the certificate. (Veterinarian salaried by the national government of the country in which the animals were slaughtered and the casings were collected)
Official title: _____

(Approved by the Office of Management and Budget under control numbers 0579–0015)

§ 96.3 [Amended]

4. In redesignated § 96.3, in the last line, "§§ 96.3" would be changed to read "§§ 96.4".

§ 96.4 [Amended]

5. In redesignated § 96.4, the introductory text and paragraph (a) would be removed, and paragraphs (b), (c), (d), and (e) would be redesignated as paragraphs (a), (b), (c), and (d), respectively.

Done in Washington, DC, this 24th day of October 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–26086 Filed 10–29–91; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

RIN 0960-AC88

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Standards Applicable in Certain Determinations of Good Cause, Fault, and Good Faith

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations amend the existing regulations to reflect the provisions of section 10305 of Public Law 101–239, the Omnibus Budget Reconciliation Act of 1989 (OBRA), enacted December 19, 1989.

Section 10305 requires that the Secretary of Health and Human Services (the Secretary), in making certain determinations of good cause, without fault, and good faith under title II of the Social Security Act (the Act), take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

In addition, section 10305 amended title XVI of the Act to require that the Secretary take these limitations into account in determining with respect to an individual's eligibility for title XVI benefits, whether the individual acted in good faith or was without fault, and in determining fraud, deception, or intent.

Section 10305 is effective for determinations or decisions made after June 30, 1990.

DATES: To be sure your comments are considered, we must receive them no later than December 30, 1991.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235 (301) 965–1769.

SUPPLEMENTARY INFORMATION:

Background

Sections 10305 (a), (b), (c), and (d) of Public Law 101–239 amended sections 203(l), 204(b), 223(f), and 223(g)(2)(B) of the Act, respectively, to require that the Secretary, in making certain determinations of good cause, fault, and good faith under the respective sections of the Act, must take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. In addition, section 10305(e) amended section 1631(c)(1) of title XVI of the Act to require that the Secretary take these limitations into account in determining with respect to the eligibility of an individual for benefits under title XVI, whether the individual acted in good faith or was without fault, and in determining fraud, deception, or intent. The Conference Committee Report on OBRA indicates that the Congress intended that the amendment to section 1631(c)(1) of the Act would apply to provisions of title XVI that are similar to the title II provisions amended by sections 10305 (a) through (d). H. R. Rep. No. 386, 101st Cong., 1st Sess. 708 (1989). The amendments made by section 10305 are effective for determinations or decisions made after June 30, 1990.

Generally, it has been our policy to take into account the limitations described in section 10305 in making determinations of good cause, without fault, or good faith (or determinations concerning fraudulent or similar intent) with respect to the rights and duties of applicants and beneficiaries under the title II and title XVI programs. However, our existing regulations are not explicit in this respect. Therefore, we propose to revise our regulations under the title II and title XVI programs to reflect explicitly the amendments to the Act made by section 10305 of Public Law 101–239. The proposed changes to the regulations would make it clear that we would take into account any physical, mental, educational, or linguistic limitations of an individual (including any lack of facility with the English language) in making a determination of good cause, without fault, or good faith, as appropriate, under section 203(l), 204(b), 223(f), or 223(g)(2)(B) of the Act (as required by the amendments made by sections 10305 (a) through (d)), and in determining with respect to an individual's eligibility for benefits under title XVI of the Act, whether such individual acted in good faith or was without fault, and in determining fraud, deception, or intent (as required under the amendment made to section 1631(c)(1) of the Act by section 10305(e)). Also, in keeping with the intent of Congress and in the interest of consistency, we propose to amend certain provisions of the title II regulations to provide expressly for the consideration of the limitations described in section 10305 in making certain determinations under the title II program which relate to good cause or fraudulent intent and which are not covered expressly by the amendments under sections 10305 (a) through (d) of OBRA of 1989. The changes we are making are discussed below.

- *Good Cause for Failure to Make Timely Reports*

Generally, in certain cases described in section 203 of the Act, a title II beneficiary who (1) works for more than 45 hours during a month in noncovered employment outside the United States, (2) ceases to have a child in his or her care, or (3) has earnings in excess of the annual exempt amount under the earnings test, is subject to a penalty (in the form of benefit deductions) if he or she fails to report these facts to us within a specified time. However, under section 203(l) of the Act, a penalty does not apply if the individual can demonstrate to the satisfaction of the Secretary that he or she has good cause for failing to make a timely report.

Section 10305(a) of Public Law 101–239 amended section 203(l), to require that the Secretary, in making determinations of good cause, must take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

Section 404.454 is the regulation which implements section 203(l). Accordingly, we propose to amend § 404.454(a) to provide that in making determinations of good cause for failure to make timely reports, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. In addition, we propose to add a new paragraph (a)(9) to § 404.454 to illustrate that good cause may be found where failure to file a timely report was due, for example, to a failure on the part of the individual to understand reporting responsibilities due to his or her physical, mental, educational, or linguistic limitation(s).

Under section 1631(e)(2) of the Act, an individual who is required under rules prescribed by the Secretary to make a timely report of circumstances affecting eligibility for, or the amount of, title XVI benefits is subject to a penalty (in the form of benefit deductions) if the individual fails to make the required

report on time. However, the penalty under section 1631(e)(2) does not apply if the individual is without fault or has good cause for not reporting timely.

Section 416.732 of our current regulations explains how we determine whether an individual has good cause for failure to make a timely report for purposes of section 1631(e)(2). We propose to add a new paragraph to § 416.732 to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in making determinations of good cause for failure to make timely reports.

• *Fraudulent Behavior or Failure to Cooperate or to Take Any Required Action in Disability Determinations*

Under sections 223(f) and 1614(a)(4) of the Act, title II or title XVI disability benefits may be terminated if a prior favorable determination of disability was fraudulently obtained or if the beneficiary fails, without good cause, to cooperate with the Secretary in reviewing his or her entitlement or to follow prescribed treatment which is expected to restore his or her ability to work.

Section 10305(c) of OBRA of 1989 amended section 223(f) of the Act to provide that in making, for purposes of section 223(f), any determination relating to fraudulent behavior by any individual or failure by any individual without good cause to cooperate or to take any required action, the Secretary shall take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have. In addition, with respect to making similar determinations for purposes of section 1614(a)(4) of the Act, section 1631(c)(1) of title XVI of the Act, as amended by section 10305(e) of OBRA of 1989, requires the Secretary to take these limitations into account in determining whether an individual acted in good faith or was at fault, and in determining fraud, deception, or intent.

Sections 404.1530, 404.1579, 404.1594, 416.930, 416.994 and 416.994a reflect the pertinent provisions of 223(f) and 1614(a)(4). We propose to make the following changes in these regulations:

• Amend §§ 404.1530(c) and 416.930(c) to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has when deciding if the individual has acceptable reasons for failure to follow prescribed treatment.

• Amend §§ 404.1579 (e)(1) and (e)(2), 404.1594 (e)(1) and (e)(2), and 416.994 (b)(4)(i) and (b)(4)(ii) and 416.994a to indicate that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining whether a prior favorable determination was fraudulently obtained or in determining whether an individual has good cause for failure to supply evidence we ask for or to go for a physical or mental examination.

The proposed changes to §§ 404.1579(e)(2), 404.1594(e)(2), and 416.994(b)(4)(ii) and 416.994a(g)(2) clarify that we will consider the factors described in §§ 404.911 and 416.1411 for purposes of determining whether an individual has good cause for failure to cooperate in a review of his or her entitlement to benefits based on disability. (Current §§ 404.911 and 416.1411 explain the factors we consider in determining whether an individual has good cause for missing a deadline to request review of a determination or decision under our administrative review process. As explained later in this preamble, we propose to amend §§ 404.911 and 416.1411, which apply to title II and title XVI cases, respectively, to provide explicitly for the consideration of the limitations described in section 10305 of OBRA of 1989 in determining whether an individual has good cause for missing a deadline to request review.) We also propose to revise §§ 404.1586(d) and 416.986(c) to clarify that we will consider the factors described in §§ 404.911 and 416.1411, respectively, for purposes of determining whether an individual has good cause for failure to cooperate in a review of his or her continuing entitlement to title II benefits, or continuing eligibility for title XVI benefits, based on blindness.

• *Without Fault—Waiver of Adjustment or Recovery of Overpayments*

Under sections 204(b) and 1631(b)(1)(B) of the Act, recovery of or adjustment of overpayments to a title II or title XVI beneficiary may be waived in situations where the individual is without fault in connection with the overpayment and recovery or adjustment would defeat the purposes of the program or would be against equity and good conscience, or with respect to the title XVI program, would impede efficient or effective administration of title XVI because of the small amount involved. Our existing regulations explain that in determining whether an individual was without fault, all pertinent factors surrounding the overpayment will be considered, including the individual's age, intelligence, education, and physical and mental capabilities.

Section 10305(b) of Public Law 101–239 amended section 204(b) of the Act to require that the Secretary, in making determinations of "without fault" for purposes of section 204(b), must take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. In addition, the amendment to section 1631(c)(1) of the Act made by section 10305(e) of OBRA of 1989 provides that, for the purposes of the title XVI program, the Secretary must take these same limitations into account in determining, among other things, whether an individual is without fault.

We propose to make the following changes in our regulations which implement sections 204(b) and 1631(b)(1)(B) of the Act to reflect the pertinent amendments made by section 10305.

• Amend § 404.507 to provide that in making determinations of without fault with respect to title II overpayments, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

• Amend § 404.5l0 to provide that in determining whether an individual is without fault with respect to a title II deduction overpayment, we will consider all pertinent circumstances, including an individual's age and intelligence and any physical, mental, educational, or linguistic limitations of the individual (including any lack of facility with the English language). In addition, to eliminate any ambiguity with respect to the application of the amendment to section 204(b) of the Act (made by section l0305(b) of Public Law 101–239) in cases involving title II deduction overpayments, the proposed changes to § 404.510 would: (1) Clarify that the situations described in § 404.510 in which an individual will be considered without fault in connection with a deduction overpayment are not all-inclusive; and (2) eliminate the provision in paragraph (n) of § 404.510 which requires that for an individual to be considered without fault with respect to a deduction overpayment in certain circumstances described in paragraph (n), such individual must have made a bona fide attempt to restrict his or her annual earnings or otherwise comply with the deduction provisions of the Act.

• Amend § 404.511(b) to show that the Social Security Administration generally will not find an individual to be without

fault where, after having been exonerated for a title II "deduction overpayment" and after having been advised of the correct interpretation of the deduction provision, the individual incurs another "deduction overpayment" under the same circumstances as the first overpayment. The proposed change to § 404.511(b) also explains that in determining "without fault" under such circumstances, however, any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has will be taken into consideration.

• Amend § 416.552 to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining whether the individual is without fault for purposes of the waiver of adjustment or recovery of a title XVI overpayment.

In general, under section 1631(b)(4) of the Act and the implementing regulation, § 416.556, if any title XVI overpayment is attributable solely to the ownership or possession by an individual (or by an individual and his or her spouse if any) of countable resources having a value which exceeds, by $50 or less, the applicable limitation on resources specified in the Act and regulations, such individual (and spouse if any) will be deemed to have been without fault in connection with the overpayment, and waiver of adjustment or recovery will be made, unless the failure to report the value of the excess resources correctly and in a timely manner was willful and knowing. Based on the amendment to section 1631(c)(1) of the Act made by section 10305(e) of OBRA of 1989, we propose to amend § 416.556(b) to provide that in determining whether failure to report the excess resources correctly and in a timely manner was willful and knowing, and, thus, whether the individual was at fault, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

• *Good Faith—Waiver of Recovery of Overpayments—Continuation of Disability Benefits Pending Appeal*

Under sections 223(g) and 1631(a)(7) of the Act and the implementing regulations at §§ 404.1597a and 416.996, a title II or title XVI beneficiary receiving benefits based on disability whom the Secretary determines is no longer disabled based on medical factors has the option of having his or her benefits continued through a hearing before an administrative law judge (ALJ). Benefits paid during this period are considered overpayments if the beneficiary loses the appeal. However, if the beneficiary acted in good faith in pursuing the appeal, repayment can be waived (sections 223(g)(2)(B) and 1631(a)(7)(B)(ii) of the Act and 404.1597a(j) and 416.996(g) of our regulations). Our regulations establish a presumption that appeals are made in good faith unless the beneficiary fails, without good cause, to cooperate during the appeal.

Section 10305(d) amended section 223(g)(2)(B) of the Act to require that the Secretary take into account any physical, mental, educational, or linguistic limitations an individual may have (including any lack of facility with the English language) in determining whether an individual's appeal is made in good faith.

Sections 404.1597a and 416.996 are the regulations which implement sections 223(g)(2)(B) and 1631(a)(7). We propose to amend §§ 404.1597a(j)(3) and 416.996(g)(2) to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining whether the individual acted in good faith in pursuing the appeal.

• *Determinations of Good Cause or of Fraud or Similar Fault in Connection with the Administrative Review Process*

Section 10305(e) amended section 1631(c)(1) of the Act to require that the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitations of an individual (including any lack of facility with the English language) in determining, with respect to the eligibility of the individual for benefits under title XVI, whether the individual acted in good faith or was at fault, and in determining fraud, deception, or intent.

The proposed changes we are making in part 416 of the regulations in connection with the administrative review process are based on the amendment to § 1631(c)(1). We are proposing comparable changes in part 404 in the interest of consistency.

Our current regulations provide that a determination or decision which we make about an individual's rights under title II or title XVI of the Act is generally final and binding unless the individual files a request for review of the determination or decision within a specified time period. However, the time period to request review will be extended if good cause can be established for missing the deadline to request review (§§ 404.911 and 416.1411). Also, under our regulations, we may reopen a determination or decision at any time if it was obtained by fraud or similar fault (§§ 404.988(c)(1) and 416.1488(c)), or, in title II cases, if certain other circumstances exist (§ 404.988(c)).

Under our regulations, a request for a hearing before an ALJ may be dismissed if neither the person requesting the hearing nor his or her designated representative appears at the time and place set for the hearing. However, if good cause for failure to appear can be established, the hearing request will not be dismissed (§§ 404.957(b) and 416.1457(b)).

We propose to make the following changes to §§ 404.911, 404.936, 404.957, 404.988, 416.1411, 416.1436, 416.1457, and 416.1488 to reflect the consideration of the factors described in section 10305 of OBRA of 1989.

• Amend §§ 404.911 (a) and (b)(9) and 416.1411 (a) and (b)(9) to provide that in determining whether an individual had good cause for missing a deadline to request review, we will take into account any physical, mental, educational, or linguistic limitations of the individual (including any lack of facility with the English language) which may have prevented the individual from filing a timely request or from understanding or knowing about the need to file a timely request for review.

• Amend §§ 404.936 and 416.1436 to further describe circumstances which an individual, who will not be represented at a hearing before an administrative law judge, may give for requesting a change in the time or place of the hearing.

• Amend §§ 404.957(b)(1) and 416.1457(b)(1) to require that in making determinations of whether an individual had good cause for failure to appear for a hearing before an ALJ, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

• Amend §§ 404.988(c)(1) and 416.1488(c) to indicate that in determining whether a determination or decision was obtained by fraud or similar fault for the purposes of reopening, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

• *Good Cause for Refusal to Accept Rehabilitation Services*

Under sections 222(b) and 1615(c) of the Act and the implementing regulations at §§ 404.422 and 416.1328, deductions may be imposed against title

II benefits, or title XVI benefits may be suspended, if a disabled or blind beneficiary refuses without good cause to accept certain rehabilitation services. If good cause can be established for the refusal, benefits will not be affected.

The proposed change we are making in part 416 of the regulations is based on the amendment to section 1631(c)(1) of the Act. We are proposing a comparable change in part 404 in the interest of consistency.

Sections 404.422 and 416.1715 of our regulations discuss how we determine whether an individual has good cause for refusing rehabilitation services. We propose to amend §§ 404.422(e) and 416.1715(a) to provide that in making good cause determinations concerning the refusal of rehabilitation services, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. We also propose to make a technical correction in a cross-reference contained in § 416.2203 to indicate that "good cause" for refusal of vocational rehabilitation services is defined in § 416.1715.

• *Good Reason for Not Applying for Other Benefits*

Section 1611(e)(2) of the Act requires that SSI applicants and beneficiaries apply for other benefits for which they may be eligible within 30 days from the date the individual receives our notice about any other benefits the individual is likely to be eligible for. Our existing regulations §§ 416.210(e) and 416.1330(a) provide that individuals are not eligible for SSI benefits if they do not apply for the other benefits when told to do so. However, both §§ 416.210(e) and 416.1330(a) provide that the individual will not be found ineligible for SSI benefits if the individual had good reason (§ 416.210(e)) or good cause (§ 416.1330(a)) for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them.

We propose to amend § 416.210(e)(2) to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining good reason or good cause for not filing for other benefits. Since § 416.1330(a) refers to § 416.210(e), we are not amending § 416.1330(a).

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because it will result in negligible administrative costs and savings. Any increase in program or administrative costs is attributable to the legislation and not the regulations. 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 these rules will affect only individuals. 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 new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802 through 93.805 Social Security; and 93.807 Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Aged, Blind, Death benefits, Disability benefits, Insurance, Old-age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: March 25, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: May 2, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, subparts E, F, J, and P of part 404 and subparts B, E, G, I, N, Q and V of part 416 of 20 CFR chapter III are amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

1. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205 (a) and (c), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405 (a) and (c), 422(b), 423(e), 424, 427, and 1302.

2. Section 404.422 is amended by adding two new sentences immediately before the second sentence of paragraph (e) introductory text to read as follows:

§ 404.422 Deductions because of refusal to accept rehabilitation services.

* * * * *

(e) * * * In making a determination as to whether an individual has good cause for refusing rehabilitation services, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have which may have caused the individual to refuse such services. We also consider other factors that may have caused an individual to refuse such services. * * *

* * * * *

3. Section 404.454 is amended by revising the third and fourth sentences of the introductory text of paragraph (a), by removing the word "or" which follows the semicolon at the end of paragraph (a)(7), by removing the period at the end of paragraph (a)(8) and replacing it with "; or", and by adding a new paragraph (a)(9) to read as follows:

§ 404.454 Good cause for failure to make required reports.

(a) *General* * * * The failure of the individual to submit evidence to establish good cause within a specified time may be considered a sufficient basis for a finding that good cause does not exist (see § 404.705). In determining whether good cause for failure to report timely has been established by the individual, consideration is given to whether the failure to report within the proper time limit was the result of untoward circumstances, misleading action of the Social Security Administration, confusion as to the requirements of the Act resulting from amendments to the Act or other legislation, or any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have. * * *

* * * * *

(9) Failure of the individual to understand reporting responsibilities due to his or her physical, mental, educational, or linguistic limitation(s).

* * * * *

4. The authority citation for subpart F of part 404 continues to read as follows:

Authority: Secs. 204(a)–(d), 205(a), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 404(a)–(d), 405(a), and 1302.

5. Section 404.507 is amended by revising the third sentence of the introductory text to read as follows:

§ 404.507 Fault.

* * * In determining whether an individual is at fault, the Social Security Administration will consider all pertinent circumstances, including the individual's age and intelligence, and any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. * * *

* * * * *

6. Section 404.510 is amended by removing the last sentence of paragraph (n) and by revising the introductory text of § 404.510 to read as follows:

§ 404.510 When an individual is "without fault" in a deduction-overpayment.

In determining whether an individual is "without fault" with respect to a deduction overpayment, the Social Security Administration will consider all pertinent circumstances, including the individual's age and intelligence, and any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. Except as provided in § 404.511 or elsewhere in this subpart F, situations in which an individual will be considered to be "without fault" with respect to a deduction overpayment include, but are not limited to, those that are described in this section. An individual will be considered "without fault" in accepting a payment which is incorrect because he failed to report an event specified in sections 203 (b) and (c) of the Act, or an event specified in section 203(d) of the Act as in effect for monthly benefits for months after December 1960, or because a deduction is required under section 203 (b), (c), (d), or section 222(b) of the Act, or payments were not withheld as required by section 202(t) or section 228 of the Act, if it is shown that such failure to report or acceptance of the overpayment was due to one of the following circumstances:

* * * * *

7. Section 404.511 is amended by revising paragraph (b) to read as follows:

§ 404.511 When an individual is at "fault" in a deduction-overpayment.

* * * * *

(b) *Subsequent deduction overpayments.* The Social Security Administration generally will not find an individual to be without fault where, after having been exonerated for a "deduction overpayment" and after having been advised of the correct interpretation of the deduction provision, the individual incurs another "deduction overpayment" under the same circumstances as the first overpayment. However, in determining whether the individual is without fault, the Social Security Administration will consider all of the pertinent circumstances surrounding the prior and subsequent "deduction overpayments," including any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which the individual may have.

8. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205 (a), (b) and (d)–(h), 221(d), and 1102 of the Social Security Act; 42 U.S.C. 401(j), 405 (a), (b), and (d)–(h), 421(d), 1302, and 1383.

9. Section 404.911 is amended by removing the period after paragraph (a)(3) and replacing it with "; and", by adding a new paragraph (a)(4), and by revising paragraph (b)(9) to read as follows:

§ 404.911 Good cause for missing the deadline to request review.

(a) * * *

(4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review.

(b) * * *

(9) Unusual or unavoidable circumstances exist, including the circumstances described in paragraph (a)(4) of this section, which show that you could not have known of the need to file timely, or which prevented you from filing timely.

10. Section 404.936 is amended by revising paragraph (d)(7) to read as follows:

§ 404.936 Time and place for a hearing before an administrative law judge.

* * * * *

(d) * * *

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of a physical, mental, educational, or linguistic limitation (including any lack of facility with the English language) which you may have.

11. Section 404.957 is amended by adding a parenthetical statement to the end of paragraph (b)(1) after "appear" and before "; or " to read as follows:

§ 404.957 Dismissal of a request for a hearing before an administrative law judge.

* * * * *

(b)(1) * * * (In making a determination of good cause under this paragraph we will consider any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.) * * *

* * * * *

12. Section 404.988 is amended by revising paragraph (c)(1), and by republishing the introductory text of paragraph (c) to read as follows:

§ 404.988 Conditions for reopening.

* * * * *

(c) At any time if—

(1) It was obtained by fraud or similar fault (see § 416.1488(c) of this chapter for factors which we take into account in determining fraud or similar fault);

* * * * *

13. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205 (a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 1302.

14. Section 404.1530 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 404.1530 Need to follow prescribed treatment.

* * * * *

(c) *Acceptable reasons for failure to follow prescribed treatment.* We will consider your physical, mental, educational, and linguistic limitations (including any lack of facility with the English language) when deciding if you have an acceptable reason for failure to follow prescribed treatment. The following are examples of a good reason for not following treatment:

* * * * *

15. Section 404.1579 is amended by revising paragraphs (e)(1) and (e)(2) to read as follows:

§ 404.1579 How we will decide whether your disability continues or ends.

* * * * *

(e) * * *

(1) *A prior determination was fraudulently obtained.* If we find that any prior favorable determination was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 404.988. In determining whether a prior favorable determination was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(2) *You do not coooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental

examination by a certain date, we will find that your disability has ended if you fail (without good cause) to do what we ask. Section 404.911 explains the factors we consider and how we will decide whether you have good cause for failure to cooperate. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

16. Section 404.1586 is amended by revising paragraph (d) to read as follows:

§ 404.1586 Why and when we will stop your cash benefits.

* * * * *

(d) *If you do not cooperate with us.* If we ask you to give us medical or other evidence or to go for a medical examination by a certain date, we will find that your disability has ended if you fail (without good cause) to do what we asked. Section 404.911 explains the factors we consider and how we will decide whether you have good cause for failure to cooperate. The month in which your disability will be found to have ended will be the month in which you failed to do what we asked.

* * * * *

17. Section 404.1594 is amended by revising paragraphs (e)(1) and (e)(2) to read as follows:

§ 404.1594 How we will decide whether your disability continues or ends.

* * * * *

(e) * * *

(1) *A prior determination was fraudulently obtained.* If we find that any prior favorable determination was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 404.988. In determining whether a prior favorable determination was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(2) *You do not cooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail (without good cause) to do what we ask. Section 404.911 explains the factors we consider and how we will decide whether you have good cause for failure to cooperate. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

18. Section 404.1597a is amended by adding a new sentence at the end of paragraph (j)(3) to read as follows:

§ 404.1597a Continued benefits pending appeal of a medical cessation determination.

* * * * *

(j) * * *

(3) * * * In determining whether an individual has good cause for failure to cooperate and, thus, whether an appeal was made in good faith, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have which may have caused the individual's failure to cooperate.

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

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

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634, of the Social Security Act; 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; secs. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268; and sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

2. Section 416.210 is amended by revising the introductory text of paragraph (e)(2) to read as follows:

§ 416.210 You do not apply for other benefits.

* * * * *

(e) * * *

(2) We will not find you ineligible for SSI benefits if you have a good reason for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them. In determining whether a good reason exists, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which may have caused you to fail to apply for other benefits. You may have a good reason if, for example—

* * * * *

3. The authority citation for subpart E of part 416 is revised to read as follows:

Authority: Secs. 1102, 1601, 1602, 1611(c), and 1631(a), (b), (d), and (g) of the Social Security Act; 42 U.S.C. 1302, 1381, 1381a, 1382(c), and 1383(a), (b), (d), and (g).

4. Section 416.552 is amended by adding after the fifth sentence of the introductory text a new sentence to read as follows:

§ 416.552 Waiver of adjustment or recovery—without fault.

* * * In determining whether an individual is without fault based on a consideration of these factors, the Social Security Administration will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have. * * *

* * * * *

5. Section 416.556 is amended by revising paragraph (b) to read as follows:

§ 416.556 Waiver of adjustment or recovery—countable resources in excess of the limits prescribed in § 416.1205 by $50 or less.

* * * * *

(b) Failure to report the excess resources correctly and in a timely manner will be considered to be willful and knowing and the individual will be found to be at fault when the evidence clearly shows the individual (and spouse if any) was fully aware of the requirements of the law and of the excess resources and chose to conceal these resources. When an individual incurred a similar overpayment in the past and received an explanation and instructions at the time of the previous overpayment, we will generally find the individual to be at fault. However, in determining whether the individual is at fault, we will consider all aspects of the current and prior overpayment situations, and where we determine the individual is not at fault, we will waive adjustment or recovery of the subsequent overpayment. In making any determination under this section concerning whether an individual is at fault, including a determination of whether the failure to report the excess resources correctly and in a timely manner was willful and knowing, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) of the individual (and spouse if any).

6. The authority citation for subpart G of part 416 continues to read as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

7. Section 416.732 is amended by redesignating the introductory text of the section, paragraphs (a), (b) introductory text, (b)(1), (b)(2) and (b) concluding text as paragraphs (a) introductory text, (a)(1), (a)(2) introductory text, (a)(2)(i), (a)(2)(ii) and (a)(2) concluding text, respectively; and

by adding a new paragraph (b) to read as follows:

§ 416.732 No penalty deduction if you have good cause for failure to report timely.

* * * * *

(b) In determining whether you have good cause for failure to report timely, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) you may have.

8. The authority citation for subpart I of part 416 is revised to read as follows:

Authority: Secs. 1102, 1614(a), 1619, 1631(a), (c) and (d)(1), and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382c(a), 1382h, 1383(a), (c) and (d)(1), and 1383b; secs. 2, 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808.

9. Section 416.930 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 416.930 Need to follow prescribed treatment.

* * * * *

(c) *Acceptable reasons for failure to follow prescribed treatment.* We will consider your physical, mental, educational, and linguistic limitations (including any lack of facility with the English language) when deciding if you have an acceptable reason for failure to follow prescribed treatment. The following are examples of a good reason for not following treatment:

* * * * *

10. Section 416.986 is amended by revising paragraph (c) to read as follows:

§ 416.986 Why and when we will find that you are no longer entitled to benefits based on statutory blindness.

* * * * *

(c) *If you do not cooperate with us.* If you are asked to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your blindness ended if you fail (without good cause) to do what we ask. Section 416.1411 explains the factors we consider and how we will decide whether you have good cause for failure to cooperate. The month in which your blindness ends will be the month in which you fail to do what we ask.

* * * * *

11. Section 416.994, is amended by revising paragraphs (b)(4)(i) and (b)(4)(ii) to read as follows:

§ 416.994 How we will decide whether your disability continues or ends.

* * * * *

(b) * * *

(4) * * *

(i) *A prior determination was fraudulently obtained.* If we find that any prior favorable determination was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 416.1488. In determining whether a prior favorable determination was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(ii) *You do not cooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail (without good cause) to do what we ask. Section 416.1411 explains the factors we consider and how we will decide whether you have good cause for failure to cooperate. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

12. Section 416.944a is amended by revising paragraphs (g)(1) and (g)(2) to read as follows:

§ 416.994a How we will decide whether your disability continues or ends, disabled children.

* * * * *

(g) * * *

(1) *A prior determination was fraudulently obtained.* If we find that any prior favorable determination was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 416.1488. In determining whether a prior favorable determination was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(2) *You do not cooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail (without good cause) to do what we ask. Section 416.1411 explains the factors we consider and how we will decide whether you have good cause for failure to cooperate. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

13. Section 416.996 is amended by adding a new sentence at the end of paragraph (g)(2) to read as follows:

§ 416.996 Continued disability or blindness benefits pending appeal of a medical cessation determination.

* * * * *

(g) * * *

(2) * * * In determining whether you have good cause for failure to cooperate and, thus, whether an appeal was made in good faith, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) you may have which may have caused your failure to cooperate.

14. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

15. Section 416.1411 is amended by removing the word "and" which follows the semicolon at the end of paragraph (a)(2), by removing the period after paragraph (a)(3) and replacing it with "; and", by adding a new paragraph (a)(4), and by revising paragraph (b)(9) to read as follows:

§ 416.1411 Good cause for missing the deadline to request review.

(a) * * *

(4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review.

(b) * * *

(9) Unusual or unavoidable circumstances exist, including the circumstances described in paragraph (a)(4) of this section, which show that you could not have known of the need to file timely, or which prevented you from filing timely.

16. Section 416.1436 is amended by revising paragraph (d)(7) to read as follows:

§ 416.1436 Time and place for a hearing before an administrative law judge.

* * * * *

(d) * * *

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of a physical, mental, educational, or linguistic limitations

(including any lack of facility with the English language) which you may have.

17. Section 416.1457 is amended by adding a parenthetical statement to the end of paragraph (b)(1) after "appear" and before "; or" to read as follows:

§ 416.1457 Dismissal of a request for a hearing before an administrative law judge.

* * * * *

(b)(1) * * * (In making a determination of good cause under this paragraph we will consider any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.) * * *.

* * * * *

18. Section 416.1488 is amended by revising paragraph (c) to read as follows:

§ 416.1488 Conditions for reopening.

* * * * *

(c) At any time if it was obtained by fraud or similar fault. In deciding whether a determination or decision was obtained by fraud or similar fault, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

19. The authority citation for subpart Q of part 416 continues to read as follows:

Authority: Secs. 1102, 1611(e)(3)(A), 1615, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382(e)(3)(A), 1382d, and 1383.

20. Section 416.1715 is amended by revising paragraph (a) to read as follows:

§ 416.1715 Effect of your rejecting vocational rehabilitation services.

(a) *Ineligible for benefits if you do not have good cause.* If we refer you to the State agency providing vocational rehabilitation services, you are not eligible for SSI benefits for any month that you refuse, without good cause, to accept services available to you (see § 416.1326(a) on suspension because of a refusal). In making a determination as to whether you have good cause for refusing vocational rehabilitation services, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which may have caused you to refuse such services. If you believe good cause exists to refuse these services, you will be asked to submit proof showing this.

* * * * *

21. The authority citation for subpart V of part 416 continues to read as follows:

Authority: Secs. 1102, 1615, and 1631(d)(1) and (e) of the Social Security Act; 42 U.S.C. 1302, 1382d, and 1383(d)(1) and (e); sec. 2344 of Pub. L. 97-35, 95 Stat. 867.

§ 416.2203 [Amended]

22. In § 416.2203, the definition of *Good cause* is amended by revising the cross-reference following the parenthetical from "§ 416.1715(b)" to "§ 416.1715".

[FR Doc. 91-25395 Filed 10-29-91; 8:45 am]
BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 220, 221 and 234

[Docket No. R-91-1550; FR-2981 P-01]

RIN 2502-AF37

Single Family FHA Insurance—Secondary Homes

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Section 326 of the Cranston-Gonzalez National Affordable Housing Act prohibits HUD from insuring a mortgage for a secondary residence unless HUD determines that it is necessary to do so to avoid undue hardship to the mortgagor, or unless the mortgage is a type exempt from the investor prohibitions set forth in section 203 of the National Housing Act. In no event may HUD insure a vacation house, as that term is defined by the Secretary. This rule proposes to implement section 326.

DATES: Comment Due Date: December 30, 1991.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708-2084). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: Morris Carter, Director, Single Family Development Division, room 9272, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2700. A telecommunications device for deaf persons (TDD) is available at (202) 708-4594. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this (rule) have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register. Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided below. 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 Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

Before its amendment by section 326 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved Nov. 28, 1990), paragraph 203(g)(1) of the National Housing Act read as follows:

(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute

mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary.

Section 326 amended this paragraph by adding the following new sentence:

In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure a mortgage with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.

In the next paragraph, 203(g)(2), a number of exemptions to the occupancy requirements set forth in paragraph 203(g)(1) are enumerated. Paragraph (g)(2) reads as follows:

(g)(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

(A) A public entity, as provided in section 214 or 247, or any other State or local government or an agency thereof;

(B) A private nonprofit or public entity, as provided in section 221(h) or 235(j), or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate income persons, as determined by the Secretary;

(C) An Indian tribe, as provided in section 248;

(D) A service person who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222;

(E) A mortgagor or co-mortgagor under subsection (k); or

(F) A mortgagor that, pursuant to section 223(a)(7), is refinancing an existing mortgage insured under this Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

In Mortgagee Letter 91–1, issued January 10, 1991, the Department revised FHA policy to take account of section 326 of the National Affordable Housing Act. A partial quote from this portion of the Mortgagee Letter reads as follows:

The 1990 Act prohibits HUD from insuring a mortgage for a secondary residence unless HUD determines that it is necessary to do so to avoid undue hardship to the mortgagor, or unless the mortgage is a type exempt from the investor prohibitions announced in [section 103(g)(2) of the NHA]. Until HUD amends its regulations to describe the hardship exceptions, HUD will not be granting hardship exceptions. Direct Endorsement lenders are not authorized to grant hardship exceptions. In no event may a secondary residence by a vacation home. This limitation on secondary residences is effective for mortgages insured:

1. Pursuant to a conditional commitment issued on or after January 27, 1991; or

2. Pursuant to an appraisal report or master appraisal report signed by a Direct Endorsement underwriter on or after January 27, 1991; or

3. Pursuant to a Certificate of Reasonable Value or Master Certificate of Reasonable Value issued by the Department of Veterans Affairs on or after January 27, 1991.

These limitations also apply to the approval of substitute mortgagors (assumptors). Except for hardship exceptions approved by HUD, FHA mortgages on properties may not be assumed if the original mortgage was subject to the limitation on secondary residences and it is the intent of the assumptor to use the property as a secondary residence.

This rule would further implement section 326 by (1) establishing procedures whereby "undue hardship exceptions" under that section may be granted and (2) providing guidance as to the conditions with must be met to prevent a secondary residence from being considered a "vacation home" (and therefore ineligible).

The Department intends to permit a mortgagor to obtain a mortgage for a secondary residence only if affordable housing which meets the needs of the mortgagor is not available for lease in the area or within reasonable commuting distance from home to work place. For example, if the mortgagor has a large family and must obtain a secondary residence because of seasonal employment or employment relocation and no rental housing is available to accommodate the family, the mortgagor may submit a request to HUD for an "undue hardship" exception. It is not HUD's intention to grant exceptions to the ban on secondary residences when affordable rental housing is available.

The request for hardship exception must be submitted by the lender to the local HUD office in written form. The request must state the basis for the exception and include a written explanation from the applicant stating that rental housing that meets the needs of the mortgagor is not available. Documentation from local real estate professionals supporting the unavailability of rental housing must also be submitted with the applicant's request.

A secondary residence will be considered a vacation home if the dwelling is used primarily for recreational purposes.

The need for a secondary residence must be related to the need for seasonal employment, relocation for employment reasons, or other circumstances not related to recreational uses of the property.

In the current regulations, 24 CFR 203.43b, a section relating to eligibility of mortgages covering housing intended for seasonal occupancy, would be removed. The statutory basis for this regulation, section 203(m) of the National Housing Act, was repealed at section 406(c) of the Housing and Community Development Act of 1987 (Pub. L. 100–242 approved Feb. 5, 1988).

Procedural Matters

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order 12291 on Federal Regulations issued by the President of February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Further, the basic provisions contained in the rule are mandated by the Congress with only a limited exercise of administrative discretion involved.

This rule was listed as item 1272 in the Department's Semiannual Agenda of Regulations published on April 22, 1991 (56 FR 17360, 17381) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have Federalism implications and, thus, are not subject to

review under the Order. The rule does not change in any way existing relationships between HUD, the states and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule would not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule does limit the availability of FHA mortgage insurance for secondary homes. This is, however, in compliance with a congressional mandate and involves only a limited exercise of administrative discretion.

The Catalog of Federal Domestic Assistance program number(s) is 14.117

List of Subjects

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 220

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 234

Condomiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 203, 207, 213, 220, 221, 227, 231, 232, 234, 235 and 236 would be amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR part 203 would continue to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1751b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

2. Section 203.18 would be amended by revising paragraph (f)(2), reserving paragraph (f)(4), and adding paragraphs (f)(5) and (f)(6) to read as follows:

§ 203.18 Maximum mortgage amounts.

* * * * *

(f) *Definitions.* As used in this section:

* * * * *

(2) *Secondary residence* means a dwelling: (i) where the mortgagor maintains or will maintain a part-time place of abode and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. A person may have only one secondary residence at a time.

* * * * *

(4) [Reserved]

(5) *Undue hardship* means that affordable housing which meets the needs of the mortgagor is not available for lease in the area, or within reasonable commuting distance from home to work place.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

* * * * *

§ 203.43b [Removed]

3. Section 203.43b, *Eligibility mortgages covering housing intended for seasonal occupancy* would be removed.

PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT AREAS

4. The authority citation for part 220 would continue to read as follows:

Authority: Secs. 207, 211, 220, National Housing Act (12 U.S.C. 1713, 1715b, 1715k); sec. 7(d), Department of Housing and Urban Development Act (12 U.S.C. 3535(d)).

5. Section 220.30 would be amended by revising paragraph (d)(2), reserving paragraph (d)(4) and adding paragraphs (d)(5) and (d)(6) to read as follows:

§ 220.30 Maximum mortgage amount—loan to value limitation.

* * * * *

(d) *Definitions.* As used in this section:

* * * * *

(2) *Secondary residence* means a dwelling: (i) Where the mortgagor maintains or will maintain a part-time place of abode and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. A person may have only one secondary residence at a time.

* * * * *

(4) [Reserved]

(5) *Undue hardship* means that affordable housing which meets the needs of the mortgagor is not available for lease, or within reasonable commuting distance from home to work place.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

6. The authority citation for part 221 would continue to read as follows:

Authority: Secs. 211, 221, National Housing Act (12 U.S.C. 1715b, 1715l sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

7. Section 221.20 would be amended by revising paragraph (c)(2), reserving paragraph (c)(4) and adding paragraphs (c)(5) and (c)(6) to read as follows:

§ 221.20 Maximum mortgage amount—loan to value limitation.

* * * * *

(c) *Definitions.* As used in this section:

* * * * *

(2) *Secondary residence* means a dwelling: (i) Where the mortgagor maintains or will maintain a part-time place of abode and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. A person may have only one secondary residence at a time.

* * * * *

(4) [Reserved]

(5) *Undue hardship* means that affordable housing which meets the needs of the mortgagor is not available for lease, or within reasonable commuting distance from home to work place.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

8. The authority citation for part 234 would continue to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. Section 234.27 would be amended by revising paragraph (e)(2), reserving paragraph (e)(4) and adding paragraphs (e)(5)and (e)(6) to read as follows:

§ 234.27 Maximum mortgage amounts.

* * * * *

(e) *Definitions.* As used in this section:

* * * * *

(2) *Secondary residence* means a dwelling: (i) Where the mortgagor maintains or will maintain a part-time place of abode and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. A person may have only one secondary residence at a time.

* * * * *

(4) [Reserved]

(5) *Undue hardship* means that affordable housing which meets the needs of the family is not available for lease, or within reasonable commuting distance.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

Dated: August 28, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 91-25974 Filed 10-29-91; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO-18-91]

RIN 1545-AP79

Proposed Amendments to Temporary Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to § 1.382-2T of the temporary Income Tax Regulations under section 382 of the Internal Revenue Code of 1986 ("the code"). The proposed amendments provide special rules regarding the segregation of stock ownership of an open-end regulated investment company following certain transactions. The rules are necessary to provide guidance to these taxpayers on the use of certain of their tax attributes.

DATES: Written comments and requests for a public hearing must be received by December 30, 1991.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, CC: CORP:T:R (CO-18-91), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION: Contact Lori J. Brown of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, or telephone (202) 566-3205 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:RP, Washington, DC 20224.

The collection of information in these proposed regulations is in § 1.382-2T(m)(15). This information is required by the Internal Revenue Service to assure that the regulations under section 382 are properly applied in determining whether and when an ownership change has occurred. The respondents will be certain regulated investment companies.

The following estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or lesser time, depending on their particular circumstances.

Estimated total annual reporting burden: 90 minutes.

Estimated burden per respondent varies from 5 minutes to 10 minutes, depending on individual circumstances, with an average of 7.5 minutes.

Estimated number of respondents: 12

Estimated frequency of responses: once.

Background

This document contains amendments to part 1 of title 26 of the Code of Federal Regulations ("CFR") under section 382 of the Code. The amendments relate to the application of the rules requiring the segregation of stock ownership in certain events to open-end regulated investment companies. Section 382 was amended by section 621 of the Tax Reform Act of 1986. Section 382 was further amended by section 10225 of the Revenue Act of 1987, sections 1006, 4012, and 5077 of the Technical and Miscellaneous Revenue Act of 1988, and sections 7205, 7304, 7811, 7815, and 7841 of the Revenue Reconciliation Act of 1989.

The regulations are proposed to be effective generally for testing dates after December 31, 1986; however, texpayers may elect not to apply the purposed amendments to testing dates prior to October 29, 1991.

Explanation of Provisions

Overview of Relevant Provisions of the Code and Regulations

Under section 382(a) of the Code, as amended, If an ownership change occurs with respect to a loss corporation (as defined in section 392(k)(1) and § 1.382-2(a)(1) of the Income Tax Regulations), the amount of the loss corporation's taxable income for a post-change year that may be offset by the pre-change losses (and certain built-in losses) of the loss corporation cannot exceed the section 382 limitation. The section 382 limitation for a post-change year is generally equal to the fair market value of the loss corporation's stock immediately before the ownership change multiplied by the applicable long-term tax-exempt rate as published periodically in the Internal Revenue Bulletin.

In general, an ownership change involves an increase of more than 50 percentage points in stock ownership by 5-percent shareholders during the testing period (usually the three year period ending on the date on which a transaction is tested for an ownership change). A 5-percent shareholder generally is an individual who owns, directly or pursuant to certain attribution rules, five percent or more of the stock of a loss corporation or individuals and entities separately owning less than five percent of the loss corporation that are aggregated into a group (referred to as a "public group") pursuant to certain aggregation rules under the temporary regulations. Transfers of loss corporation stock among members of public groups

generally are not taken into account in determining whether an ownership change has occurred.

The rule disregarding transfers of a loss corporation's stock among members of public groups is a rule of convenience designed to alleviate the burden of tracking trades among less-than-five-percent shareholders. Congress, however, recognized that there are situations in connection with transfers of stock involving less-than-five-percent shareholders in which it is feasible to identify changes in ownership by these shareholders because, unlike in public trading, the changes occur as part of a single, integrated transaction. With respect to these transactions, Congress intended that, where identification of changes in ownership is reasonably feasible or a reasonable presumption can be applied, regulations should provide that the changes should be taken into account in determining whether an ownership change has occurred. Conf. Rep. No. 841, 99th Congress, 2d Sess., part II at 176 (1986).

Section 1.382–2T(j)(2) of the temporary regulations provides rules for the segregation of stock ownership in those cases where identification of changes in ownership is reasonably feasible or a reasonable presumption can be applied. The regulations generally require that the public shareholders of a loss corporation be segregated into two or more separate groups upon the occurrence of certain identifiable events. Each of these public groups is treated as a separate 5-percent shareholder regardless of whether each of the groups owns at least five percent of the loss corporation's stock. Thus, for example, public shareholders who receive loss corporation stock as a result of an issuance of stock by the loss corporation are segregated and treated separately from public shareholders that owned loss corporation stock prior to the transaction. For another example, if a corporation redeems shares held by public shareholders in exchange for cash, those shareholders are, as a group, segregated from all other public shareholders immediately before the transaction. The public shareholders who do not sell shares in the redemption are treated as a separate 5-percent shareholder whose percentage of stock ownership increases as a result of the transaction.

Proposed Amendments to § 1.382–2T

For purposes of section 382 and the regulations thereunder, the temporary regulations apply the segregation rules to all loss corporations, regardless of the method by which their shares are ordinarily purchased and sold. Accordingly, the segregation rules apply to corporations qualifying as regulated investment companies (RIC's) under section 851 of the Code.

RIC's generally consist of either open-end funds (commonly known as mutual funds) or closed-end funds. Unlike closed-end funds, mutual fund shares are not traded on national exchanges. Instead, mutual funds continuously offer new shares to the public and are required under the securities laws to redeem shares at the share's net asset value upon a shareholder's demand. As a result, shares may be redeemed and issued on a daily basis with the number of outstanding shares in constant fluctuation. The shares issued by such mutual funds that must be redeemed on demand are defined in the Investment Company Act of 1940. Mutual funds are not permitted to carry over net operating losses by virtue of section 852(b)(2)(B) and generally will not have excess credits. However, mutual funds may carry over net capital losses or have a net unrealized built-in loss within the meaning of section 382(h).

Under the authority of section 382(m) of the Code, the Service has determined that certain of the segregation rules contained in § 1.382–2T(j)(2), should not apply to mutual funds because requiring mutual funds to track the issuance and redemption of their shares in the ordinary course of business imposes administrative burdens similar to the burdens of tracking public trading between less-than-five-percent shareholders. Accordingly, the proposed amendments provide that the segregation rules of § 1.382–2T(j)(2) do not apply to a mutual fund's issuance or redemption, in the ordinary course of business, of stock that is redeemable upon demand of the shareholder. However, the rules of § 1.382–2T(j)(2) still apply to require segregation on, for example, the issuance or redemption of such stock as a result of a merger or other transaction to which section 381 applies because such transactions are not considered made in the ordinary course of business.

The proposed regulations are generally effective for testing dates after December 31, 1986. However, a mutual fund may elect to apply the proposed regulation only to testing dates on or after October 29, 1991.

Special Analyses

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

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written request by any person who submits written comments on the proposed rules. Notice of the time, place and date for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Lori J. Brown, Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Service and the Treasury Department participated in developing the regulations, in matters of both substance and style.

List of Subjects in 26 CFR 1.381(a) through 1.383–3

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

The notice of proposed rulemaking (to amend 26 CFR part 1) that was published on August 11, 1987, (52 FR 29704) is amended and additional amendments to 26 CFR part 1 are proposed as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by revising the following citations to read in part:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. Section 7805 * * * § 1.382–2T also issued under 26 U.S.C. 382(g)(4)(C), 26 U.S.C 382(i), 26 U.S.C. 382(k)(1), 26 U.S.C. 382(k)(6), 26 U.S.C. 382(l)(3), and 26 U.S.C. 382(m). * * *

Par. 2. The table of comments in § 1.382–1T is amended by adding a reference at the end for paragraphs (m)(10) through (15) to read as follows:

§ 1.382–1T Limitation on net operating loss carryforwards and certain built-in losses following ownership change (temporary).

* * * * *

(m) * * *

(10) through (14) [Reserved]

(15) Transitional rules for certain regulated investment companies.

(i) General rule.

(ii) Election to apply prospectively.

Par. 3. Section 1.382–2T is amended as follows:

1. Paragraph (j)(2)(iii)(A) is amended by adding a new sentence at the end thereof to read as set forth below.

2. Paragraph (m) is amended by reserving paragraphs (10) through (14) and by adding a new paragraph (15) to read as set forth below.

§ 1.382–2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

* * * * *

(j) * * *

(2) * * *

(iii) * * *

(A) * * * The segregation rules of paragraph (j)(2) of this section do not apply to the issuance (as described in paragraph (j)(2)(iii)(B)(*ii*)) or the redemption (as described in paragraph (j)(2)(iii)(C)) of any redeemable security, as defined in 15 U.S.C. 80a–2(a)(32), by a regulated investment company in the ordinary course of business.

* * * * *

(m) * * *

(10) through (14) [Reserved]

(15) *Transitional rule for certain regulated investment companies*—(i) *General rule.* The last sentence of paragraph (j)(2)(iii)(A) of this section shall apply to testing dates after December 31, 1986. A corporation may file an amended return for taxable years ending before [Insert date the Treasury Decision adopting this Notice of Proposed Rulemaking is filed with the **Federal Register**] to take into account the last sentence of paragraph (j)(2)(iii)(A) of this section only if corresponding adjustments are made in amended returns for all affected taxable years ending after December 31, 1986.

(ii) *Election to apply prospectively.* A corporation may elect to apply the last sentence of paragraph (j)(2)(iii)(A) of this section only to testing dates on or after October 29, 1991. The election must be made on the first return which is filed after [Insert date that is 60 days after the Treasury Decision adopting this Notice of Proposed Rulemaking is filed with the **Federal Register**] by stating on such return, "Election made under § 1.382–2T(m)(15)".

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91–25910 Filed 10–29–91; 8:45 am]

BILLING CODE 4830–01–M

POSTAL RATE COMMISSION

39 CFR PART 3001

[Docket No. RM91–1]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Proposed rulemaking; extension of time.

SUMMARY: The Commission has solicited suggestions from interested persons for improvements in the Commission's rules of practice. A Postal Service request for a further extension in which to file comments is granted.

DATES: Comments responding to advance notice of proposed rulemaking must be submitted on or before December 30, 1991.

ADDRESSES: Comments and correspondence should be sent to Charles L. Clapp, Secretary of the Commission, suite 300, 1333 H Street, NW., Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, suite 300, 1333 H Street, NW., Washington, DC 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: The Commission issued an advance notice of proposed rulemaking on June 14, 1991, inviting interested parties to submit comments on possible ways of improving the Commission's rules of practice. 56 FR 28850 (June 25, 1991). On August 23, 1991, the Commission granted the Postal Service's request to extend the time for comments to October 25, 1991. 56 FR 4213–14 (Aug. 29, 1991). On October 22, 1991, the Postal Service filed a request for a further extension of time in which to comment. Citing the workload now facing the Commission and the Postal Service, it argues that an extension of an additional 60 days would allow more thoughtful responses. Having considered the Postal Service's assertions, we are extending the date for the receipt of comments. Comments are now due December 30, 1991.

Issued by the Commission on October 24, 1991.

Charles L. Clapp,

Secretary.

[FR Doc. 91–26082 Filed 10–29–91; 8:45 am]

BILLING CODE 7710–FW–M

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 90–23]

Tariffs and Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Notice of availability of Fourth Report.

SUMMARY: The Federal Maritime Commission's Fourth Report in this proceeding resolves the issue of the required use of the Harmonized System of Commodity Coding in the Commission's Automated Tariff Filing and Information System ("ATFI"), which is the only remaining policy issue set forth in the August 1990 Notice of Inquiry, and prescribes an implementation plan/schedule which includes three months of additional prototype testing requested by public commenters.

DATES: Availability of Fourth Report: October 25, 1991.

ADDRESSES: The Fourth Report can be obtained from: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: John Robert Ewers, Deputy Managing Director, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5800.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–26164 Filed 10–29–91; 8:45 am]

BILLING CODE 6730–01–M

46 CFR Part 514

[Docket No. 90–23]

Tariffs and Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule; extension of time for comments.

SUMMARY: On September 9, 1991, the Federal Maritime Commission publishes (56 FR 46044) a Proposed Rule (new 46 CFR part 514) which solicited public comment on its proposal for implementation of the Automated Tariff Filing and Information System ("ATFI"). Nine conferences (the "Conferences") of ocean common carrier (Asia North America Eastbound Rate Agreement, Israel Eastbound Conference, Israel Westbound Conference, Japan–Atlantic and Gulf Freight Conference, North Europe–USA Rate Agreement, Transpacific Freight Conference of Japan, Transpacific Westbound Rate Agreement, USA-North Europe Rate Agreement, and United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference) have requested a 45-day extension of time for filing comments which are now due on October 31, 1991. The Conferences claim that the additional time requested would enable the comments to be submitted jointly, without duplication. In view of the implementation schedule contained in the recently issued Fourth Report (see separate Notice), the Commission has determined to grant the Conferences' request and extend the time for filing comments, as set forth in the "Dates" section below. Because the implementation schedule may involve certain activities for which user charges must be assessed, the deadline for filing comments to proposed new § 512.21. User charges, is not extended as much as that for the balance of the proposed rule, in order that proposed § 514.21 can be finalized by early December 1991.

DATES: Comments (original and fifteen copies) on or before: (1) November 8, 1991, on proposed § 514.21, User charges. (2) December 16, 1991, on the balance of the Proposed Rule (new part 514).

ADDRESSES: Send comments to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: John Robert Ewers, Deputy Managing Director, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5800.

By the Commission.

Joseph C. Polking,

Secretary

[FR Doc. 91–26165 Filed 10–29–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–108; RM–6606]

Radio Broadcasting Services; Sonora, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Denial of Proposal.

SUMMARY: The Commission declines to grant a petition for rule making filed by H Group, Inc., licensee of Station KZSQ(FM), Channel 224A, Sonora, California, seeking the substitution of Channel 224B1 for Channel 224A at Sonora and modification of its license accordingly. H Group failed to demonstrate that its proposal could provide a signal of at least 3.16 mV/m field strength over the entire community of Sonora. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 9, 1991.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 89–108, adopted October 10, 1991, and released October 25, 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 contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–26102 Filed 10–29–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–304, RM–7787]

Television Broadcasting Services; Albion, Lincoln and Columbus, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Citadel Communications Company, Ltd., seeking the substitution of UHF TV Channel 18 for VHF TV Channel 8 at Albion, Nebraska, the reallotment of Channel 8 from Albion to Lincoln, Nebraska, as the community's second local commercial television service, and the modification of Station KCAN's license to specify Lincoln as its community of license. Alternatively, Citadel proposes the reallotment of Channel 8 from Albion to Columbus, Nebraska, as the community's first local television service, as well as the allotment of Channel 18 to Albion. Channel 8+ can be allotted to Lincoln with a site restriction of 42.8 kilometers (26.6 miles) northwest to avoid a short-spacing to Station KCCI, Channel 8, Des Moines, Iowa, and to avoid the Lincoln "freeze" area, at coordinates North Latitude 41–01–10 and West Longitude 97–07–23. Channel 18 can be allotted to Albion with a site restriction of 36.2 kilometers (22.5 miles) northwest to avoid short-spacings to Station KXNE, Channel 19, Norfolk, Nebraska, and to unused and unapplied for Channel *21 at Albion, at coordinates 41–56–00 and 98–17–30. Channel 8+ can be allotted to Columbus without the imposition of a site restriction, at coordinates 41–25–30 and 97–21–36.

DATES: Comments must be filed on or before December 16, 1991, and reply comments on or before December 31, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Eric L. Bernthal, Esq., Kevin C. Boyle, Esq., Michael I. Gilman, Esq., Latham & Watkins, 1001 Pennsylvania Avenue, NW., suite 1300, Washington, DC 20004 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–304, adopted October 10, 1991, and released October 25, 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 contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-26103 Filed 10-29-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-305, RM-7825]

Radio Broadcasting Services; Lovington, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Lea County Broadcasting seeking the substitution of Channel 269C3 for Channel 269A at Lovington, New Mexico, and the modification of Station KLEA-FM's license to specify operation on the higher class channel. Channel 269C3 can be allotted to Lovington in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.9 kilometers (4.9 miles) south to accommodate petitioner's desired transmitter site, at coordinates North Latitude 32-52-43 and West Longitude 103-19-12. Mexican concurrence in the allotment at Lovington is required since the community is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

DATES: Comments must be filed on or before October 10, 1991, and replay comments on or before October 25, 1991.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Bodorff, Esq., Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-305, adopted October 10, 1991, and released October 25, 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 contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-26104 Filed 10-29-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AB69

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for 23 Plants From the Island of Kauai, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 23 plants: *Brighamia insignis* ('olulu), *Cyanea asarifolia* (haha), *Cyrtandra limahuliensis* (ha'iwale), *Delissea rhytidosperma* (no common name (NCN)), *Diellia laciniata* (NCN), *Exocarpos luteolus* (heau), *Hedyotis cookiana* ('awiwi), *Hibiscus clayi* (Clay's hibiscus), *Lipochaeta fauriei* (nehe), *Lipochaeta micrantha* (nehe), *Lipochaeta waimeaensis* (nehe), *Lysimachia filifolia* (NCN), *Melicope haupuensis* (alani), *Melicope knudsenii* (alani), *Melicope pallida* (alani), *Melicope quadrangularis* (alani), *Munroidendron racemosum* (NCN), *Nothocestrum peltatum* ('aiea), *Peucedanum sandwicense* (makou), *Phyllostegia waimeae* (NCN), *Pteralyxia kauaiensis* (kaulu), *Schiedea spergulina* (NCN), and *Solanum sandwicense* (popolo'aiakeakua). All but seven of the species are or were endemic to the island of Kauai, Hawaiian Islands; the exceptions are or were found on the islands of Niihau, Oahu, Molokai, Maui, and/or Hawaii as well as Kauai. The 23 plant species and their habitats have been variously affected or are currently threatened by 1 or more of the following: Habitat degradation by wild, feral, or domestic animals (goats, pigs, mule deer, cattle, and red jungle fowl); competition for space, light, water, and nutrients by naturalized, introduced vegetation; erosion of substrate produced by weathering or human- or animal-caused disturbance; recreational and agricultural activities; habitat loss from fires; and predation by animals (goats and rats). Due to the small number of existing individuals and their very narrow distributions, these species and most of their populations are subject to an increased likelihood of extinction and/or reduced reproductive vigor from stochastic events. This proposal, if made final, would implement the Federal protection and recovery provisions provided by the Act. If made final, it would also implement State regulations protecting these plants as endangered species. Comments and materials related to this proposal are solicited.

DATES: Comments from all interested parties must be received by December 30, 1991. Public hearing requests must be received by December 16, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Derral R. Herbst, at the above address (808/541–2749 or FTS 551–2749).

SUPPLEMENTARY INFORMATION:

Background

Brighamia insignis, Cyanea asarifolia, Cyrtandra limahuliensis, Delissea rhytidosperma, Diellia laciniata, Exocarpos luteolus, Hedyotis cookiana, Hibiscus clayi, Lipochaeta fauriei, Lipochaeta micrantha, Lipochaeta waimeaensis, Lysimachia filifolia, Melicope haupuensis, Melicope knudsenii, Melicope pallida, Melicope quadrangularis, Munroidendron racemosum, Nothocestrum peltatum, Peucedanum sandwicense, Phyllostegia waimeae, Pteralyxia kauaiensis, Schiedea spergulina, and *Solanum sandwicense* are endemic to or have the majority of their populations on the island of Kauai, Hawaii. Sixteen of these species are endemic to the island of Kauai, Hawaii; two additional species are now found only on Kauai. One of these species is now or was previously also known from Niihau, four from Oahu, two from Molokai, two from Maui, and one from the island of Hawaii.

The island of Kauai is the northernmost and oldest of the eight major Hawaiian Islands (Foote *et al.* 1972). This highly eroded island, characterized by deeply dissected canyons and steep ridges, is 553 square miles (sq mi) (1,430 sq kilometers (km)) in area (Dept. of Geography 1983). Kauai was formed about six million years ago by a single shield volcano. Its caldera, once the largest in the Hawaiian Islands, now extends about 10 mi (16 km) in diameter and comprises the extremely wet, elevated tableland of Alakai Swamp (Dept. of Geography 1983). Because the highest point of Kauai, at Kawaikini Peak, is only 5,243 feet (ft) (1,598 meters (m)) in elevation (Walker 1990), it lacks the contrasting leeward montane rainfall patterns found on other islands that have higher mountain systems. Rainfall is therefore distributed throughout the upper elevations, especially at Mount Waialeale, Kauai's second highest point at 5,148 ft in elevation (1,569 m) (Walker 1990) and one of the wettest spots on earth, where annual rainfall averages 450 inches (in) (1,140 centimeters (cm)) (Honda *et al.* 1967, Joesting 1984). To the west of the Alakai Swamp is the deeply dissected Waimea Canyon, extending 10 mi (16 km) in length and up to 1 mi (1.6 km) in width. Later volcanic activity on the southeastern flank of the volcano formed the smaller Haupu caldera. Subsequent erosion and collapse of its flank formed Haupu Ridge (Macdonald *et al.* 1983). One of the island's most famous features is the Na Pali coast, where stream and wave action have cut deep valleys and eroded the northern coast to form precipitous cliffs as high as 3,000 ft (910 m) (Joesting 1984).

Because of its age and relative isolation, levels of floristic diversity and endemism are higher on Kauai than on any other island in the Hawaiian archipelago. However, the vegetation of Kauai has undergone extreme alterations because of past and present land use. Land with rich soils was altered by the early Hawaiians and, more recently, converted to agricultural use (Gagne and Cuddihy 1990) or pasture. Intentional or inadvertent introduction of alien plant and animal species has also contributed to the reduction of native vegetation on the island of Kauai. Native forests are now limited to the upper elevation mesic and wet regions within Kauai's conservation district. The 23 species proposed in this rule occur in that district, between 400 and 4,000 ft (120 and 1,200 m) in elevation in the western and northwestern portions of the island within large State-owned tracts of natural area reserves, forest reserves, and parks. Most of the proposed species persist on steep slopes, precipitous cliffs, valley headwalls, and other regions where unsuitable topography has prevented agricultural development or where inaccessibility has limited encroachment by alien animal and plant species.

The 23 species proposed in this rule are distributed throughout the island of Kauai and grow in a variety of vegetation communities (grassland, shrubland, and forests), elevational zones (coastal to montane), and moisture regimes (dry to wet). Six species are found in various lowland dry communities. These once abundant communities are now fragmented due to fire, development, and the ingression of alien plants and animals. *Munroidendron racemosum* extends from coastal mesic vegetation communities to higher elevations in lowland dry (Hawaii Heritage Program (HHP) 1990a) and mesic forests. *Peucedanum sandwicensis* is found within a variety of vegetation communities, ranging from coastal to lowland dry to mesic shrublands and forests. Only 1 of the 23 proposed species is found in grasslands: *Brighamia insignis* grows within Kauai's lowland dry grassland and shrubland communities in the Na Pali region, where the annual rainfall is usually less than 65 in (170 cm). Three species, *Hibiscus clayi, Delissea rhytidosperma,* and *Melicope knudsenii,* are located within lowland dry forests, the latter two extending into mesic forests. Lowland dry forests are characterized by an annual rainfall of 20 to 80 in (50 to 200 cm), which falls between November and March, and a well-drained, highly weathered substrate rich in aluminum (Gagne and Cuddihy 1990).

Eighteen of the 23 species have all or a significant number of their populations in lowland mesic or wet forest communities. Lowland mesic forest communities lie between 100 and 3,000 ft (30 and 1,000 m) in elevation and are characterized by a 6.5 to 65 ft (2 to 20 m) tall canopy and a diverse understory of shrubs, herbs, and ferns. The annual rainfall of 45 to 150 in (120 to 380 cm) falls predominantly between October and March (Gagne and Cuddihy 1990). This mesic community often grades into lowland wet forests that are typically found on the windward side of the island or in sheltered leeward situations between 330 and 3,940 ft (100 and 1,200 m) in elevation. The rainfall in this lowland wet community may exceed 200 in (500 cm) per year. These forests were once the predominant vegetation on Kauai but now exist only on steep rocky terrain or cliff faces. The substrate is generally of well-drained soils that may support tree canopies up to 130 ft (40 m) in height (Cuddihy and Stone 1990, Gagne and Cuddihy 1990).

The habitat of *Solanum sandwicense* extends to the higher elevation and drier portions of montane mesic forests, whereas the habitat of *Exocarpos luteolus* extends into montane wet forests. *Nothocestrum peltatum* and *Phyllostegia waimeae* are the only proposed species found strictly within these montane communities, which typically occur above 3,000 ft (1,000 m) in elevation (HHP 1991). The annual rainfall in montane communities may exceed 280 in (700 cm) (Gagne and Cuddihy 1990).

The land that supports these 23 plant species is owned by various private parties, the City and County of Honolulu, and the State of Hawaii (including State parks, forest reserves, natural area reserves, the Seabird Sanctuary, and land managed under a cooperative agreement with the National Park Service).

Discussion of the 23 Species Proposed for Listing

Asa Gray (in Mann 1868) described *Brighamia insignis* based upon alcohol-preserved flowers and fruits collected by William Tufts Brigham on Molokai and a dried specimen collected on Kauai

or Niihau by Ezechiel Jules Remy. The specific epithet means "outstanding," referring to the plant's uinque appearance. Brigham's bottled material, since lost, would today be considered to be *Brighamia rockii*. Other published names which Thomas G. Lammers (1990), in the currently accepted treatment of the family, considers to be synonymous with *B. insignis* include *B. insignis* f. *citrina* (Forbes 1917a), *B. citrina* (St. John 1958), and *B. citrina* var. *napaliensis* (St. John 1969b).

Brighamia insignis, a member of the bellflower family (Campanulaceae), is an unbranched plant 3 to 16 ft (1 to 5 m) tall with a succulent stem that is bulbous at the bottom and tapers toward the top. The fleshy leaves, which meaure 5 to 8 in (12 to 20 cm) long and 2.5 to 4.5 in (6.5 to 11 cm) wide, are arranged in a compact rosette at the apex of the stem. Fragrant yellow flowers are clustered in groups of three to eight in the leaf axils (the point between the leaf and the stem), with each flower on a stalk 0.4 to 1.2 in (1 to 3 cm) long. The hypanthium (basal portion of the flower) has 10 ribs and is topped with 5 oval or loosely triangular calyx lobes (partially fused sepals) 0.02 to 0.04 in (0.5 to 1 millimeter (mm)) long. The yellow petals are fused into a tube 2.8 to 5.5 in (7 to 14 cm) long and 0.1 to 0.2 in (3 to 4 mm) wide which flares into five elliptic lobes. The fruit is a capsule 0.5 to 0.7 in (13 to 19 mm) long which contains numerous seeds. This species is a member of a unique endemic Hawaiian genus with only one other species, presently known only from Molokai, from which it differs by the color of its petals, its shorter calyx lobes, and its longer flower stalks (Hillebrand 1888; Johnson 1986; Lammers 1990; Rock 1919; St. John 1958, 1969b; Takeuchi 1982).

Historically, *Brighamia insignis* was known from the headland between Honolulu and Waiahuakua Valleys along the Na Pali coast on the island of Kauai, and from Kaali Spring on the island of Niihau (HHP 1991a1, 1991a2, 1991a4). The Na Pali coast populations are still extant, and additional populations are known from the same general area: The two Na Pali coast populations within or on the boundary of the Hono O Na Pali Natural Area Reserve (NAR) are within 0.4 mi (0.6 km) of each other (HHP 1991a1, 1991a3). There are also two populations in the Haupu Range within 2.7 mi (4.3 km) of each other (HHP 1991a2, 1991a5). The 5 populations grow on State and private land and total fewer than 100 plants. The status of the small population on privately-owned Niihau is not known, although there are reports that it was destroyed when the supporting cliff fell away (HHP 1991a4; Wichman and St. John 1990; Charles Christensen, Hawaii Department of Agriculture, and John Fay, U.S. Fish and Wildlife Service, pers. comms., 1991). This species grows predominantly on the rocky ledges, with little soil, of steep sea cliffs in lowland dry grassland and shrubland from sea level to 1,300 ft (400 m) in elevation (Gagne and Cuddihy 1990, Lammers 1990). Associated plant species include *Canthium odoratum* (alahe'e), *Chamaesyce celastroides* ('akoko), *Eragrostics variabilis* (kawelu), and *Heteropogon contortus* (pili grass) (Gagne and Cuddihy 1990; HHP 1991a1 to 1991a3).

Feral individuals of *Capra hircus* (goats) pose the major threat to *Brighamia insignis* by causing defoliation and stem damage, restricting populations to inaccessible cliffs, and probably causing rock slides which degrade the plant's habitat. Alien plant species are another major threat to the survival of this species, expecially introduced grasses such as *Melinis minutiflora* (molasses grass), *Setaria gracilis* (yellow foxtail), and *Sporobolus africanus* (smutgrass), which prevent establishment of seedlings. Other alien plants posing a threat are *Lantana camara* (lantana), *Psidium cattleianum* (common guava), and *Syzygium cumini* (Java plum). Hikers transport weed seeds to areas where *Brighamia insignis* grows and dislodge rocks which can damage plants. Some plants flower but fail to set seed, which may be due to a lack of pollinators or a reduction in genetic variability due to the few existing individuals. *Brighamia insignis* is also threatened by stochastic extinction due to low total numbers and the frequency of disturbance events, such as the rock slides, in their cliff habitat. *Tetranychus cinnarbarinus* (carmine spider mite), an introduced insect, has been observed to cause leaf loss in both cultivated and wild individuals of *Brighamia insignis* (Christensen 1979; HHP 1991a1 to 1991a4; Hawaii Plant Conservation Center (HPCC) 1990a; Perlman 1979; St. John 1969b, 1981b; Stone 1957; Takeuchi 1982; Wagner *et al.* 1990; Tim Flynn, National Tropical Botanical Garden, pers. comm., 1991).

Robert W. Hobdy collected a specimen of *Cyanea asarifolia* on Kauai in 1970; Harold St. John (1975) later described and named the taxon. The specific epithet refers to the leaves, which are similar in shape to those in the genus *Asarum*. Recently, St. John (1987d, St. John and Takeuchi 1987) placed the genus *Cyanea* in synonymy with *Delissea*, resulting in the new combination *Delissea asarifolia*, but Lammers (1990) retains both genera in the currently accepted treatment of the family.

Cyanea asarifolia, a member of the bellflower family, is a sparingly branched shrub 1 to 3.3 ft (0.3 to 1 m) tall. The heart-shaped leaves are 3.3 to 4.1 in (8.5 to 10.5 cm) long and 2.8 to 3.1 in (7 to 8 cm) wide with leaf stalks 4.7 to 5.9 in (12 to 15 cm) long. Thirty to 40 flowers are clustered on a stalk 1 to 1.2 in (25 to 30 mm) long, each having an individual stalk 0.3 to 0.4 in (7 to 10 mm) in length. The slightly curved flowers are white with purple stripes, 0.8 to 0.9 in (20 to 22 mm) long, and about 0.1 in (3 to 3.5 mm) wide with spreading lobes. The five anthers have tufts of white hairs at the tips. The nearly spherical fruit is a dark purple berry, about 0.4 in (1 cm) long. This species is distinguished from others of the genus that grow on Kauai by the shape of the leaf base, the leaf width in proportion to the length, and the presence of a leaf stalk (Lammers 1990, St. John 1975).

For over 20 years, *Cyanea asarifolia* was known only from a population of five or six plants above the bed of Anahola Stream on Kauai at its type locality (HHP 1991b1). Because recent attempts to locate this population were unsuccessful, it is now thought to be extirpated (T. Flynn, pers. comm., 1991). In 1991, Steven Perlman and Ken Marr discovered a population of 14 mature plants and 5 seedlings at the headwaters of the Wailua River in central Kauai on State-owned land (HHP 1991b2; Steven Perlman, HPCC, pers. comm., 1991). This species typically grows in pockets of soil on sheer rock cliffs in lowland wet forests (Ken Marr, University of British Columbia, pers. comm., 1991) at an elevation of approximately 1,080 ft (330 m). Associated plant species include ferns, *Hedyotis elatior* (manono), *Metrosideros polymorpha* ('ohi'a), *Touchardia latifolia* (olona), and *Urera glabra* (opuhe) (Lammers 1990; St. John 1975; Robert Hobdy, Hawaii Department of Land and Natural Resources (DLNR), and S. Perlman, pers. comms., 1991).

Cyanea asarifolia is threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals. Plants in the area in which the only currently known population occurs are vulnerable to occasional natural rock slides. Habitat degradation by feral individuals of *Sus scrofa* (pigs), at least one of which has invaded the plant's habitat, is a potential threat (T. Flynn, David Lorence, National Tropical Botanical

Carden, and S. Perlman, pers. comms., 1991).

Lawrence H. MacDaniels first collected *Cyrtandra limahuliensis* on Kauai in 1926. St. John (1987a) described the species, naming it for Limahuli Valley, where Steven Perlman collected the type specimen in 1978.

Cyrtandra limahuliensis, a member of the African violet family (Gesneriaceae), is an unbranched or few-branched shrub up to 5 ft (1.5 m) tall. The opposite, elliptic leaves are usually 6 to 12 in (15 to 30 cm) long and 2 to 4.7 in (5 to 12 cm) wide. The upper surface of the toothed leaves is moderately hairy and the lower surface, with deep veins, is moderately or densely covered with yellowish brown hairs. Single downy flowers are borne in the leaf axils. The slightly curved corolla tube (fused petals) barely extends beyond the calyx. The calyx encloses the approximately 0.8 in (2 cm) long berries at maturity. The following combination of characteristics distinguish this species from others of the genus: The leaves are usually hairy, especially on lower surfaces; the usually symmetrical calyx is tubular or funnel-shaped and encloses the fruit at maturity; and the flowers are borne singly (St. John 1987a, Wagner *et al.* 1990).

Historically, *Cyrtandra limahuliensis* was known from three locations on Kauai: Wainiha and Lumahai Valleys and near Kilauea River (HHP 1991c4, 1991c5, 1991c8). One population remains in Wainiha Valley and eight others exist on Kauai: In Limahuli Valley, Waipa Valley, on Mount Kahili, along the north fork of Wahiawa Stream, along Anahola Stream, and near Powerline Trail on private and State land (HHP 1991c1 to 1991c3, 1991c5 to 1991c7; T. Flynn, R. Hobdy, S. Perlman, and Warren L. Wagner, Smithsonian Institution, pers. comms., 1991). The 9 known populations, distributed over a 13 by 18 mi (20 by 30 km) area, range in size from solitary trees to between 50 and 100 plants (HHP 1991c1 to 1991c3, 1991c5 to 1991c7). The largest population, of "hundreds or perhaps thousands" of plants (W.L. Wagner, pers. comm., 1991), is limited to a 0.25 sq mi (0.4 sq km) area along the north fork of the Wailua River. Other botanists familiar with this population believe it to number no more than 500 individuals (T. Flynn and D. Lorence, pers. comms., 1991). This species typically grows along streams in lowland wet forests at elevations between 800 and 2,850 ft (240 and 870 m) (Wagner *et al.* 1990). Associated species include 'ohi'a, *Dicranopteris linearis* (uluhe), *Gunnera kauaiensis* ('ape'ape), *Hedyotis* (manono), and *Psychotria* (kopiko) (HHP 1991c1, 1991c7; T. Flynn, pers. comm., 1991).

The major threat to *Cyrtandra limahuliensis* is competition with invasive alien species, especially strawberry guava. Each population has additional threats: Competition with the introduced grasses *Paspalum conjugatum* (Hilo grass) and *Sacciolepis indica* (Glenwood grass) at the Mount Kahili population; competition with the alien species *Leptospermum scoparium* (tea tree) and *Grevillea banksii* (kahili flower) at the Waipa Valley population; competition with common guava and habitat degradation by feral pigs at the Anahola Stream population; and competition with *Hedychium flavescens* (yellow ginger) at the Wainiha Valley population. Individuals of the Wailua Stream population are situated at the base of a steep cliff and are vulnerable to natural landslides (HHP 1991c1; T. Flynn, R. Hobdy, D. Lorence, and W.L. Wagner, pers. comms., 1991).

Remy first collected a specimen of *Delissea rhytidosperma* on Kauai between 1851 and 1855. Horace Mann, Jr., (1867) chose the specific epithet to describe its wrinkled seeds. Heinrich Wawra (1873) later described another species, *D. Kealiae*, which he said was closely related to *D. rhytidosperma*. In the current treatment of the family, Lammers (1990) considers *D. kealiae* to be synonymous with *D. rhytidosperma*.

Delisssea rhytidosperma, a member of the bellflower family, is a branched shrub 1.6 to 8.2 ft (0.5 to 2.5 m) tall. The lance-shaped or elliptic leaves are 3.1 to 7.5 in (8 to 19 cm) long and 0.8 to 2.2 in (2 to 5.5 cm) wide and have toothed margins. Clusters of 5 to 12 flowers are borne on stalks 0.4 to 0.8 in (1 to 2 cm) long; each flower has a stalk 0.3 to 0.5 in (8 to 13 mm) long. The greenish white (sometimes pale purple) corolla is 0.6 to 0.8 in (14 to 20 mm) long. The stamens are hairless, except for a small patch of hair at the base of the anthers. The nearly spherical dark purple fruits are 0.3 to 0.5 in (7 to 12 mm) long and contain numerous white seeds. This species differs from other species of the genus by the shape, length, and margins of the leaves and by having hairs at the base of the anthers (Hillebrand 1888; Lammers 1990; Rock 1913, 1919; Wimmer 1953).

Historically, *Delissea rhytidosperma* was known from scattered locations throughout the island of Kauai. Populations ranged as far north as Wainiha and Limahuli Valleys, as far east as Kapaa and Kealia, and as far south as Haupu Range between the elevations of 1,000 and 3,000 ft (300 and 1,000 m) (HHP 1991d3 to 1991d7). Today only one population with five individuals, located in State-owned Kuia NAR, is known to exist (HHP 1991d1). The only other population seen in recent years was a single plant in Limahuli Valley which is now dead (Bruegmann 1990; HHP 1991d2; S. Perlman, pers. comm., 1991). This species generally grows in diverse lowland mesic forests or *Acacia koa* (koa)-dominated lowland dry forests that have well-drained soils with medium- to fine-textured subsoil (Foote *et al.* 1972, Gagne and Cuddihy 1990, Lammers 1990). Associated plant species include *Dianella sandwicensis* ('uki'uki), *Diospyros sandwicensis* (lama), *Nestegis sandwicensis* (olopua), and *Styphelia tameiameiae* (pukiawe) (HHP 1991d1, 1991d2).

Habitat degradation by *Odocoileus hemionus* (mule deer), feral goats, and feral pigs is the major threat affecting the survival of *Delissea rhytidosperma*. Other threats are predation by *Rattus* spp. (rats) and competition with alien plants, such as lantana, *Passiflora ligularis* (sweet granadilla), and *P. mollissima* (banana poka). This species, with a single extant population of five individuals, is threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (Bruegmann 1990; HHP 1991d1; HPCC 1990b; John Obata, HPCC, and S. Perlman, pers. comms., 1991).

About 1875, Valdemar Knudsen, a rancher on Kauai, collected a fern at Halemanu, which Wilhelm Hillebrand (1888) named *Lindsaya laciniata*, the specific epithet referring to the divided fronds. Hillebrand also indicated two varieties: Var. *subpinnata*, a bipinnate form, which may actually represent another species (Wagner 1952), and an unnamed form. Friedrick Ludwig Emil Diels (1899) transferred the species to *Diellia*, resulting in *Diellia laciniata*, the name currently in use (Lamoureux 1988). Work in progress (Warren H. Wagner, University of Michigan, *in litt.* and pers. comm., 1991) indicates the possibility of a future taxonomic change, but one which will not affect the endangered status of this taxon.

Diellia laciniata, a member of the spleenwort family (Aspleniaceae), is a plant that grows in tufts of three to four light green, lance-shaped fronds along with a few persistent dead ones. The midrib of the frond ranges from dark purple to brownish gray in color and has a dull sheen. Scales on the midrib are brown, gray, or black; 0.1 to 0.2 in (3 to 5 mm) long; and rather inconspicuous. The fronds measure 12 to 22 in (30 to 55 cm) in length and 2 to 5 in (5 to 12 cm) in width and have short black hairs on the underside. Each frond has

approximately 20 to 40 pinnae (divisions or leaflets). The largest pinnae are in the middle section of the frond, while the lower section has triangular, somewhat reduced pinnae, with the lowermost pair of pinnae raised above the plane of the others. The sori (groups of spore-producing bodies), which are frequently fused along an extended line, are encircled by a prominent vein. This species differs from others of this endemic Hawaiian genus by the color and sheen of the midrib, the presence and color of scales on the midrib, and the frequent fusion of sori (Hillebrand 1888; Wagner 1952, 1987).

Diellia laciniata was known historically from Halemanu on Kauai (Hillebrand 1888). It is currently known from three populations on State land on the island of Kauai: Paaiki and Mahanaloa Valleys within Kuia NAR, Koaie Canyon, and the west side of Waimea Canyon within Puu Ka Pele Forest Reserve (CPC 1989a, 1990; HHP 1991e1 to 1991e3; Wagner 1952; D. Lorence, pers. comm., 1991). The three known populations extend over a 7 by 3 mi (11 by 5 km) area. This species had not been seen since 1949, when a collection was made in Kuia NAR (Warren H. Wagner, University of Michigan, pers. comm., 1991). In 1987, Joel Lau of The Nature Conservancy of Hawaii (TNCH) discovered the Koaie Canyon population of three or four individuals (Bruegmann 1990; HHP 1991e3; Joel Lau, Hawaii Heritage Program, and S. Perlman, pers. comms., 1991). Botanists of the National Tropical Botanical Garden have since discovered 2 plants in Puu Ka Pele Forest Reserve on the west side of Waimea Canyon on State land, and in July 1991, revisited the Kuia NAR population and found 5 to 10 plants there, giving a total of fewer than 20 extant individuals for this species (J. Lau, D. Lorence, and S. Perlman, pers. comms., 1991). This species grows on bare soil on steep, rocky, dry slopes of lowland mesic forests, 1,700 to 2,300 ft (530 to 690 m) in elevation. Associated plant species include koa, *Alectryon macrococcus* (mahoe), *Aleurites moluccana* (kukui), *Antidesma platyphyllum* (hame), and *Rauvolfia sandwicensis* (hao) (HHP 1991e1 to 1991e3; S. Perlman, pers. comm., 1991).

Competition with alien plants, especially lantana and *Melia azedarach* (Chinaberry), constitutes the major threat to *Diellia laciniata*. Introduced grasses, such as *Stenotaphrum secundatum* (St. Augustine grass) and *Oplismenus hirtellus* (basketgrass), and two naturalized species of Polynesian introduction, kukui and *Cordyline fruitcosa* (ti), degrade this species' habitat. Feral goats cause erosion near the plants and trample and possibly browse these plants. Other threats to this species are habitat degradation by feral pigs and mule deer as well as stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (HHP 1991e2, 1991e3; Bruegmann 1990, Wagner 1950; J. Lau, S. Perlman, and D. Lorence, pers. comms., 1991).

Reverend John Mortimer Lydgate first collected *Exocarpos luteolus* in 1908, and Charles N. Forbes (1910) described the species 2 years later. The species epithet means "yellow" and refers to the color of the receptacle (base of flower) and fruit.

Exocarpos luteolus, a member of the sandalwood family (Santalaceae), is a moderately to densely branched shrub 1.6 to 6.6 ft (0.5 to 2 m) tall with knobby branches. The leaves are of two kinds, minute scales and more typical leaves. The latter, which are usually present, are elliptical, lance-shaped, or oval, usually 2 to 3.2 in (5 to 8 cm) long and 1 to 1.4 in (25 to 36 mm) wide, and lack a leaf stalk. The green flowers have five to six petals about 0.04 in (1 mm) long. The pale yellow fruit is a drupe (single-seeded fleshy fruit), usually 0.4 to 0.7 in (11 to 19 mm) long, with four distinct indentations at the apex. About 0.2 to 0.4 in (6 to 9 mm) of the drupe is exposed above the fleshy, golden-yellow receptacle. This species is distinguished from others of the genus by its generally larger fruit with four indentations and by the color of the receptacle and fruit (Degener 1932a, 1932b; Forbes 1910; Wagner *et al.*1990).

Historically, *Exocarpos luteolus* was known from three locations on Kauai: Wahiawa Swamp, Kaholuamanu, and Kumuweia Ridge (HHP 1991f1, 1991f5, 1991f7). This species is now known to grow on Kumuweia Ridge as well as in Kauaikinana Valley, near Honopu Trail, and on the rim of Kalalau Valley within or on the boundary of Kokee State Park (HHP 1991f3 to 1991f6) in a 3 sq mi (5 sq km) area and also on Kamalii Ridge in Kealia Forest Reserve (HHP 1991f2), roughly 16 mi (26 km) away. All 5 known populations are on State land and are estimated not to exceed 50 individuals (HHP 1991f2, 1991f4, and 1991f6; Derral Herbst, U.S. Fish and Wildlife Service, and S. Perlman, (pts. comms., 1991). There are reliable but unconfirmed reports that this species was collected on the slopes of Anahola Mountain about 1970 (D. Herbst, pers. comm., 1991). *Exocarpos luteolus* is found at elevations between 2,000 and 3,600 ft (600 and 1,100 m) in a variety of habitats: Wet places bordering swamps; on open, dry ridges; and in lowland to montane, 'ohi'a-dominated wet forest communities (HHP 1991f1, 1991f3, 1991f4, 1991f6; Wagner *et al.* 1990). Associated species include koa, pukiawe, and uluhe (HHP 1991f2 to 1991f5).

Destruction of habitat by feral goats and pigs is the major threat to *Exocarpos luteolus*. Aggressive alien species degrading this plant's habitat include *Acacia mearnsii* (black wattle), *Corynocarpus laevigatus* (Karakanut), *Myrica faya* (firetree), and *Rubus argutus* (prickly Florida blackberry), all woody plants which displace native Hawaiian taxa. Other threats to this species are rats, which eat the fruits; goats, which browse the plants; and stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (HHP 1991f6; T. Flynn and S. Perlman, pers. comms., 1991).

Louis Charles Adelbert von Chamisso collected a plant specimen in 1816 at Kealakekua, island of Hawaii, and named it *Kadua cookiana* (Chamisso and Schlechtendal 1829). The specific epithet commemorates Captain James Cook, the first European to anchor at Kealakekua Bay. Ernest G. Steudel (1840) transferred the species to the genus *Hedyotis*, resulting in the combination *H. cookiana*.

Hedyotis cookiana, a member of the coffee family (Rubiaceae), is a small shrub with many branches 4 to 8 in (10 to 20 cm) long. The papery-textured leaves are long and narrow, 1.5 to 3 in (4 to 8 cm) long and about 0.2 to 0.5 in (0.5 to 1.2 cm) wide, and fused at the base to form a sheath around the stem. The bisexual or female flowers are arranged in clusters of threes on flower stalks about 0.3 to 0.6 in (8 to 15 mm) long, with the central flower on the longest stalk. Beneath the flower clusters are sharp-pointed bracts (modified leaves). The fleshy white corolla is trumpet-shaped and about 0.3 to 0.4 in (8 to 9 mm) long, with lobes about 0.08 in (2 mm) long. Fuits are top-shaped or spherical capsules about 0.1 in (3.0 to 3.5 mm) long and 0.1 to 0.2 in (3.5 to 4 mm) wide that open at maturity to release wedge-shaped reddish brown seeds. This plant is distinguished from other species in the genus that grow on Kauai by being entirely hairless (Fosberg 1943, Hillebrand 1888, Chamisso and Schlechtendal 1829, Wagner *et al.* 1990).

Historically, *Hedyotis cookiana* was known from only three collections: Kealakekua on the island of Hawaii, Halawa and Kalawao on Molokai, and at the foot of the Koolau Mountains on Oahu (Fosberg 1943, HHP 1991g2,

Hillebrand 1888). There is no evidence that it still exists on any of those islands. This species was discovered in 1976 by Charles Christensen on the island of Kauai in Waiahuakua Valley on State land (HHP 1991g1). Between 50 and 100 plants are scattered along a 0.25 mi (0.4 km) distance in the streambed and lower part of the waterfall. Although this population has not been observed since its discovery, it is still believed to be extant (C. Christensen, pers. comm., 1991). *Hedyotis cookiana* generally grows in streambeds or on steep cliffs close to water sources in lowland wet forest communities (C. Christensen, pers. comm., 1991) and is believed to have formerly been much more widespread on several of the main Hawaiian Islands at elevations between 560 and 1,200 ft (170 and 370 m) (Wagner *et al.* 1990).

The major threat to *Hedyotis cookiana*, with only one known population, is stochastic extinction and/or reduced reproductive vigor. Potential threats include competition with alien plants, which are invading the area, and habitat modification by feral pigs, which have been observed in the area. Individuals of *Hedyotis cookiana* grown in a stream bed and on the side of a waterfall, and these areas are vulnerable to flooding and other natural disturbances (HHP 1991u6; C. Christensen and T. Flynn, pers. comms., 1991).

In 1928, Albert W. Duvel discovered several trees of *Hibiscus clayi* that had been damaged by cattle and brought the species into cultivation. Isa and Otto Degener named the species after the late Horace F. Clay, a horticulturist and college instructor who brought the species to their attention (Degener and Degener 1959a). Sister Margaret James Roe, in her study of the genus in Hawaii, named *H. newhousei* as another species from Kauai (Roe 1959, 1961). In the currently accepted treatment of the Hawaiian members of the family, David M. Bates (1990) considers *H. newhousei* to be a synonym of *H. clayi*.

Hibiscus clayi, a member of the mallow family (Malvaceae), is a shrub or tree 13 to 26 ft (4 to 8 m) tall with stems bearing sparse hairs at the branch tips. The oval or elliptical leaves are usually 1 to 3 in (3 to 7 cm) long and 0.6 to 1.4 in (15 to 35 mm) wide and have a hairless upper surface and slightly hairy lower surface. The leaf margins are entire or toothed toward the apex. The flowers are borne singly near the ends of the branches. The flaring petals are dark red, 1.8 to 2.4 in (45 to 60 mm) long, and 0.4 to 0.7 in (10 to 18 mm) wide. The green tubular or urn-shaped calyx is usually 0.6 to 1 in (15 to 25 mm) long with five or six shorter bracts beneath. The fruits are pale brown capsules 0.5 to 0.6 in (12 to 14 mm) long, containing about 10 oval, brownish black seeds about 0.16 in (4 mm) long. This species is distinguished from other native Hawaiian members of the genus by the lengths of the calyx, calyx lobes, and capsule and by the margins of the leaves (Bates 1990, Degener and Degener 1959a).

Hibiscus clayi is known from scattered locations on private and State land on the island of Kauai: The Kokee region on the western side of the island, Moloaa Valley to the north, Nounou Mountain in Wailua to the east, and as far south as Haiku near Halii Stream (HHP 1991h1 to 1991h5). The 4 known populations total between 14 and 20 individuals (HHP 1991h2, 1991h3; David Bates, Cornell University, T. Flynn, and S. Perlman, pers. comms., 1991). It is unclear whether the individual in the Kokee region was a cultivated plant. One individual growing at the Wailua Agricultural Experiment Station, 1.5 mi (2.4 km) west of the Nounou population, is believed to be cultivated (T. Flynn and S. Perlman, pers. comms., 1991). This lowland dry forest species generally grows on slopes at an elevation of 750 to 1,150 ft (230 to 350 m). Associated species include Java plum, koa, kukui, and ti (Bates 1990; HHP 1991h1, 1991h2).

Before cattle were removed from the area, they greatly damaged the habitat of *Hibiscus clayi*. Competition with alien plant species currently threatens this species. Strawberry guava is the greatest threat, but common guava, Hilo grass, Java plum, kukui, lantana, ti, *Acacia confusa* (Formosa koa), and *Schinus terebinthifolius* (Christmas berry) are also present. The area of the Nounou Mountain population has been planted with *Araucaria columnaris* (columnar araucaria), which is reseeding itself there and preventing regeneration of native plants. The close proximity of most of the plants to a hiking trail makes them prone to disturbance. The small total number of existing individuals poses a threat of stochastic extinction and/or reduced reproductive vigor (Degener and Degener 1959a; HHP 1991h1 to 1991h3; HPCC 1990c; T. Flynn, pers. comm., 1990; D. Bates, T. Flynn, D. Herbst, and R. Hobdy, pers. comms., 1991).

Abbe Urbain Jean Faurie first collected *Lipochaeta fauriei* on Kauai in 1910, and the following year H. Leveille (1911) named the plant in honor of him. St. John (1972) described another species from Kauai, *L. deltoidea*, but the authors (Wagner *et al.* 1990) of the current treatment place this name in synonymy with *L. fauriei*.

Lipochaeta fauriei a member of the aster family (Asteraceae), is a perennial herb with somewhat woody, erect or climbing stems up to 16 ft (5 m) long. The toothed leaves are narrowly triangular, slightly hairy, 3 to 5 in (7 to 13 cm) long, and about 1.2 in (3 cm) wide. Flower heads occur in clusters of 2 to 3, each comprising 6 to 8 ray florets, 0.2 to 0.5 in (6 to 13 mm) long and about 0.1 in (2.3 mm) wide, and 30 to 35 disk florets 0.1 to 0.2 in (3.3 to 3.9 mm) long. The bracts beneath the flower heads are purple near the base. Fruits are knobby-textured achenes (dry, one-seeded fruits) about 0.1 in (2.5 to 3 mm) long and 0.07 in (1.5 to 2 mm) wide; the achenes of the disk florets are sometimes thinner and shorter than those of the ray florets. This species belongs to a genus endemic to the Hawaiian Islands and is one of three species found only on the island of Kauai. This species differs from the others on Kauai by having a greater number of disk and ray flowers per flower head, typically longer leaves and leaf stalks, and longer ray flowers (Gardner 1976, 1979; St. John 1972; Sherff 1935b; Wagner *et al.* 1985, 1990).

Historically, *Lipochaeta fauriei* was known from Olokele Canyon on the island of Kauai (Gardner 1979, HHP 1991i5). This species is now also known from four other areas on Kauai: Koaie Canyon and Poopooiki, Haeleele, and lower Hikimoe Valleys (HHP 1991i1 to 1991i4; HPCC 1990d2; St. John 1972). All 5 populations, totalling fewer than 70 individuals, are found on State land (HHP 1991i1 to 1991i3; HPCC 1990d2, 1990d3; R. Hobdy and J. Lau, pers. comms., 1991), encompassing a 6 by 7 mi (10 by 11 km) area. This species most often grows in moderate shade to full sun and is usually found on the sides of steep gulches in diverse lowland mesic forests at an elevation of about 1,570 to 2,950 ft (480 to 900 m) (Wagner *et al.* 1990). Associated plant species include basketgrass, kukui, lama, and *Hibiscus waimeae* (Koki'o ke'oke'o); the major alien associate is lantana (HHP 1991i1 to 1991i3; HPCC 1990d2, 1990d3).

The major threats to *Lipochaeta fauriei* are degradation of its habitat by feral goats and competition with invasive alien plant species, especially lantana. The small total number of individuals comprises a threat of stochastic extinction and/or reduced reproductive vigor to this species (HHP 1991i1 to 1991i3; HPCC1990d1 to 1990d3; R. Hobdy, J. Lau, and S. Perlman, pers. comms., 1991).

Thomas Nuttall (1841) described *Schizophyllum micranthum* based upon a specimen collected on Kauai in 1840 during the United States Exploring Expedition. The specific epithet refers to the small size of the flowers. In 1843 Guilielmo Gerardo Walpers published the superfluous name *Aphanopappus nuttallii* based upon the same specimen described by Nuttall (Gardner 1979). Gray (1861) transferred the species to the genus *Lipochaeta*, resulting in *L. micranta*. Amos Arthur Heller (1897) transferred the species into the genus *Aphanopappus*, resulting in *A. micranthus*. Otto Degener and Earl Edward Sherff (Sherff 1941) described *L. exigua* as another Kauai taxon based upon a specimen collected by Otto Degener and Emilio Ordonez. In his monograph of the genus, Robert C. Gardner (1979) recognized *L. micrantha* var. *exigua* along with the typical variety, and this is accepted in the current treatment (Wagner *et al.* 1990).

Lipochaeta micrantha, a member of the aster family, is a somewhat woody perennial herb. The 1.6 to 6.6 ft (0.5 to 2 m) long stems grow along the ground and root at the nodes, with the tip of the stem growing upward. The roughly triangular leaves measure 0.8 to 3.8 in (2.1 to 9.7 cm) long and 0.5 to 3.1 in (1.2 to 7.8 cm) wide. They are sparsely hairy, with margins smooth or variously lobed. Flower heads are in clusters of two or three. Each head contains four to five ray florets, 0.1 to 0.2 in (2.3 to 5.8 mm) long and 0.06 to 0.14 in (1.4 to 3.5 mm) wide, and five to nine disk florets, about 0.1 in (2.7 to 3.1 mm) long. The two recognized varieties of this species, *exigua* and *micranta*, are distinguished by differences in leaf length and width, degree of leaf dissection, and the length of the ray florets. The smaller number of disk flowers separates this species from the other two species of this genus that are found only on the island of Kauai (Gardner 1976, 1979; Degener and Degener 1059b, 1962; Sherff 1935b; Wagner *et al.* 1990).

Only one historical collection of *Lipochaeta micrantha* var. *exigua* is known, from "0.75 mi [1.2 km] SW of Hokunui," in the vicinity of Haupu Range on the island of Kauai (HHP 1991j3). The 2 existing populations of this variety are distributed over a 1.5 mi (2.4 km) distance on privately-owned portions of Haupu Range and total between 100 and 500 individuals (HHP 1991j1, 1991j2; T. Flynn, pers. comm., 1991). *Lipochaeta micrantha* var. *micrantha* appears to have been more widely distributed historically on Kauai: Olokele Canyon, Hanapepe Valley, and in the Koloa District (HHP 1991k1, 1991k5; T. Flynn and S. Perlman, pers. comms., 1991). This variety is now only known from 2 populations located on State land in Koaie Canyon on Kauai and totalling 55 to 70 individuals (HHP 1991k1, 1991k5; S Perlman, pers. comm., 1991). The two populations are approximately 1.4 mi (2.3 km) apart. Both varieties generally grow on exposed rocky slopes in diverse lowland mesic forests and sometimes on grassy ridges at an elevation of 1,000 to 1,300 ft (300 to 400 m) (HHP 1991j1 to 1991j3, 1991k1 to 1991k5; Wagner *et al.* 1990). Associated plant species include alahe'e, lama, 'ohi'a, *Chamaesyce celastroides* var. *hanapepensis* ('akoko), and *Neraudia kauaiensis* (Gardner 1979; HHP 1991j1, 1991k1, 1991k2).

The major threats to *Lipochaeta micrantha* are habitat degradation by feral ungulates and competition with alien plant species. Feral pigs threaten the habitat of both varieties of *Lipochaeta micrantha*, and signs of damage by feral goats have been seen near individuals of var. *micrantha*. Alien plant species such as lantana affect the habitats of both varieties. *Pluchea carolinensis* (sourbush) is found near var. *exigua*, and *Erigeron karvinskianus* (daisy fleabane) is a component of the habitat of var. *micrantha*. Variety *micrantha* is threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (HHP 1991j1, 1991j2, 1991k1, 1991k5; HPCC 1990e, 1990f; T Flynn, pers. comm., 1991).

Hobdy collected the first specimen of *Lipochaeta waimeaensis* in 1967, and St. John named it five years later (1972). He chose the specific epithet to refer to Waimea Canyon where the plant grows.

Lipochaeta waimeaensis, a member of the aster family, is a low growing, somewhat woody perennial herb with stems 3 to 6.5 ft (1 to 2 m) long that root at the nodes. The linear or narrowly elliptical leaves are 1.9 to 2 in (4.7 to 5 cm) long, 0.2 to 0.3 in (5 to 8 mm) wide, hairy along major veins on the upper surface, and evenly hairy on the lower surface Flower heads are borne singly or in clusters of two or three. The outer head bracts are lance-shaped and measure 0.1 to 0.2 in (3 to 4 mm) long and 0.06 to 0.08 in (1.5 to 2 mm) wide. The oval ray florets number four or five per head and are about 0.13 in (3.2 to 3.5 mm) long and about 0.1 in (3 mm) wide The disk florets number 20 to 25 per head. The fruits are knobby, winged achenes 0.1 in (2.2 to 2.5 mm) long and about 0.08 in (1.7 to 2.3 mm) wide The ray achenes are slightly wider and have longer wings than those of the disk. This species differs from the two other proposed species of the genus (*L. fauriei* and *L. micrantha*) in having a different leaf shape and shorter leaf stalks and ray florets (Gardner 1976, 1979; St. John 1972; Wagner *et al.* 1990).

Lipochaeta waimeaensis is known only from the type locality, along the rim of Kauai's Waimea Canyon on State land (HHP 1991m1). Fewer than 10 plants are scattered over a 2.5-acre (ac) 1-hectare (ha)) area (Gerald Carr, University of Hawaii at Manoa, and S. Perlman, pers. comms., 1991). This population grows on eroded soil on a precipitous shrubby gulch in a diverse lowland mesic forest at an elevation between 1,150 and 1,300 ft (350 and 400 m) (HHP 1991m1, Wagner *et al.* 1990). The vegetation at the site is predominantly alien consisting of *Grevillea robusta* (silk oak), *Leucaena leucocephala* (koa haole), and *Rhynchelytrum repens* (Natal redtop); however, the native species *Dodonaea viscosa* ('a'ali'i) and *Lipochaeta connata* (nehe) (CPC 1989b, 1990; S. Perlman, pers. comm., 1991) also occur here

Alien plant species competing with and threatening *Lipochaeta waimeaensis* include koa haole, Natal redtop, silk tree, and *Opuntia ficus-indica* (prickly pear). The existing soil erosion problem is exacerbated by the presence of feral pigs. The single population, and thus the entire species, is threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (G. Carr and S. Perlman, pers. comms., 1991).

In 1912 Lydgate collected a plant specimen on Kauai which he and Forbes named *Lysimachia filifolia* (Forbes 1916). They chose the specific epithet, which means "thread-leaved," in reference to the plant's very narrow leaves. Heller (1897) created a new genus, *Lysimachiopsis*, in which he placed all endemic Hawaiian species of *Lysimachia*, and Otto and Isa Degener (1983) later published *Lysimachiopsis filifolia*. The current treatment (Wagner *et al.* 1990) recognizes *Lysimachiopsis* as a section of *Lysimachia* Most recently, St. John (1987b) published many species, varieties, and combinations of *Lysimachia*, one or more of which may fit into this species (Wagner *et al.* 1990).

Lysimachia filifolia, a member of the primrose family (Primulaceae), is small a shrub 0.5 to 1.6 ft (15 to 50 cm) tall. The linear leaves measure 0.6 to 2.1 in (15 to 54 mm) long and 0.01 to 0.07 in (0.3 to 1.8 mm) wide and are usually alternately arranged. They are single-veined and sparsely hairy or hairless. The bell-shaped flowers are reddish purple, 0.2 to

0.4 in (6 to 10 mm) long, and borne singly on flower stalks about 0.7 to 1.2 in (18 to 30 mm) long that elongate upon fruiting. Fruits are thick, hard capsules about 0.2 in (5 to 6 mm) long that contain numerous minute, nearly black, irregularly shaped seeds. This species is distinguished from other species of the genus by its leaf shape and width, calyx lobe shape, and corolla length (Forbes 1916, Wagner *et al.* 1990).

Historically, *Lysimachia filifolia* was known only from the upper portion of Olokele Valley on Kauai (HHP 1991n1). This species is now known from two areas: the headwaters of the Wailua River on Kauai and the slopes of Waiahole Valley in the Koolau Mountains of Oahu (HHP 1991n2, 1991n3; HPCC 1990g1, 1990g3). Three closely situated colonies of Kauai are located within a 0.5 sq mi (1.3 sq km) area and total 76 individuals (K. Marr, pers. comm., 1991). The Oahu population contains about 150 to 200 individuals (CPC 1989a; HHP 1991n3; HPCC 1990g1, 1990g3). Both populations of this species are located on State land, totalling approximately 225 to 275 individuals. This species typically grows on mossy banks at the base of cliff faces within the spray zone of waterfalls or along streams in lowland wet forests at an elevation of 800 to 2,200 ft (240 to 680 m) (HHP 1991n1 to 1991n3; HPCC 1990g1, 1990g3; Wagner *et al.* 1990; K. Marr, pers. comm., 1991). Associated plant species include mosses, ferns, liverworts, pili grass, tarweed, and *Pilea peploides* (HHP 1991n3; J. Lau, pers. comm., 1991).

The major threat to *Lysimachia filifolia* is competition with alien plant species. Individuals of this species on Kauai are damaged and destroyed by natural rock slides in their habitat, which is near the bottom of steep cliffs. Marsh pennywort, tarweed, and thimbleberry, although not invasive weeds, are present in this near-pristine area of Wailua Stream and degrade the native ecosystem. A small amount of damage by feral pigs have been noticed in the area as well, indicating that this disruptive animal is a potential threat. Individuals of *Lysimachia filifolia* on Oahu are vulnerable to rock slides and compete for space with alien plants such as marsh fleabane, tarweed, *Ageratina riparia* (Hamakua pamakani), and *Schefflera actinophylla* (octopus tree). Because only one population of *Lysimachia filifolia* occurs on each of only two islands, the species is threatened by stochastic extinction (HHP 1991n3; HPCC 1990g2; D Lorence and S. Perlman, pers. comms., 1991).

In 1927 MacDaniels collected a plant specimen on Kauai which St. John (1944) later named *Pelea haupuensis*. The specific epithet refers to the type locality, Haupu, the only known site for this plant until it was discovered in Waimea Canyon in 1989. Thomas G. Hartley and Benjamin C. Stone (1989, Stone *et al.* 1990, Wagner *et al.* 1990) synonymized the genus *Pelea* with *Melicope*, resulting in the current name for this taxon: *Melicope haupuensis*.

Melicope haupuensis, a member of the citrus family (Rutaceae), is a tree about 26 ft (8 m) tall. The oval leaves, 2 to 5.1 in (5 to 13 cm) long and 1.1 to 2.2 in (28 to 56 mm) wide, are oppositely arranged. Flowers grow in clusters of five to seven on stalks usually 0.1 to 2.8 in (2 to 7 mm) long, each flower on a stalk 0.04 to 0.12 in (1 to 3 mm) long. Only female flowers are known. The flowers are about 0.14 in (3.5 mm) long, doted with oil glands, and covered with a dense mat of hairs. Fruits are distinct follicles (a dry fruit that splits open lengthwise). 0.35 to 0.43 (9 to 11 mm) long, with a hairless exocarp and endocarp (outermost and innermost layers of the fruit wall, respectively). Unlike other species of this genus on Kauai, the exocarp and endocarp are hairless and the sepals are covered with dense hairs (St. John 1944, Stone 1969, Stone *et al.* 1990).

For 62 years, *Melicope haupuensis* was known only from the type locality on the north side of Haupu Ridge on Kauai (HHP 1991o3). In 1989, two plants were discovered within 1 mi (1.6 km) of each other along the banks of Koaie Stream on State-owned land in Waimea Canyon (HHP 1991o1, 1991o2). These plants grow on moist talus slopes in 'ohi'a-dominated lowland mesic forests (Stone *et al.* 1990) with such associated species as 'a'ali'i and hame, at elevations between 1,230 and 2,690 ft (375 and 820 m) (HHP 1991o1 to 1991o3).

Habitat degradation by feral goats and competition with invasive alien plant species such as lantana and yellow foxtain threaten *Melicope haupuensis*. A potential threat to members of this genus is their known susceptibility to *Xylosandrus compactus* black twig borer), a burrowing beetle ubiquitous in Hawaii at elevations below 2,500 ft (670 m). The existence of only two known trees of this species constitutes a threat of stochastic extinction and reduced reproductive vigor (Hara and Beardsley 1979; HHP 1991o1, 1991o2; Medeiros *et al.* 1986).

Knudsen sent a plant specimen he found at Waimea to Hillebrand, who named it *Pelea knudsenii* in honor of its collector (Hillebrand 1888). In an action that was not supported by other taxonomists, Emmanuel Drake del Castillo (1890) transferred several species from the genus *Pelea* to the genus *Evodia*. Hartley and Stone (1989) synonymized the genus *Pelea* with *Melicope*, resulting in the combination *M. knudsenii*. Other names now included in *M. knudsenii* are *Pelea multiflora* (Rock 1911), *P. knudsenii* var. *multiflora* (Rock 1918), and *P. tomentosa* St. John 1944).

Melicope knudsenii, a member of the citrus family, is a tree usually 10 to 33 ft (3 to 10 m) tall with smooth gray bark and yellowish brown to olive-brown hairs on the tips of the branches. Leaves are variable, ranging from oblong to elliptic, 3.5 to 9.8 in (9 to 25 cm) long, and 1.8 to 3.9 in (4.5 to 10 cm) wide. The lower surface of the leaves is uniformly covered with olive-brown hairs, but the upper surface is only sparsely hairy along the midrib. The densely hairy flowers are bisexual or may be unisexual. There are usually 20 to 200 flowers per cluster in the leaf axils. The sepals and petals are covered with silky gray hairs, and the sepals persist in fruit. The fruits are 0.7 to 1.2 in (18 to 30 mm) wide and are comprised of distinct follicles, 0.3 to 0.6 in (8 to 14 mm) long. The hairless exocarp is dotted with minute glands. The endocarp also lacks hairs. Seeds number one or two per carpel (ovule-bearing structure) and are about 0.2 in (5 to 6 mm) long. The distinct carpels of the fruit, the hairless endocarp, the larger number of flowers per cluster, and the distribution of hairs on the underside of the leaves distinguish this species from *M. haupuensis* and other species of the genus (Degener *et al.* 1962a, 1962b; Hillebrand 1888; Rock 1913; Stone 1969; Stone *et al.* 1990).

Historically, *Melicope knudsenii* was known only from the southeast slope of Haleakala on Maui and from Olokele Canyon on Kauai (HHP 1991p1, 1991p5). This species remains in the Auwahi and Kanaio area of Maui (R. Hobdy and Arthur Medeiros, Haleakala National Park, pers. comms., 1991) on privately-owned land but its numbers have decreased considerably from being "very common" in 1920 to between 20 and 30 plants when it was last observed in 1983 (CPC 1990; HHP 1991p1). On Kauai, three populations, each consisting of one individual, remain on State land in the Koaie drainage area of Waimea Canyon (HHP 1991p2 to 1991p4, S. Perlman, pers. comm., 1991) and are distributed across a distance of 1.6 mi (2.6 km). This species therefore totals between 23 and 33 individuals at present. *Melicope knudsenii* grows on forested flats or talus slopes in lowland

dry to mesic forests at an elevation of about 1,500 to 3,300 ft (450 to 1,000 m) (Stone *et al* 1990). The Auwahi population on Maui, however, grows on a substrate of 'a'a lava in a remnant native forest, dominated by a continuous mat of *Pennisetum clandestinum* (Kikuyu grass) (HHP 1991p1; Medeiros *et al.* 1986). Plants associated with the Kauai populations include 'a'ali'i, hame, 'ohi'a, and *Xylosma* (HHP 1991p3, 1991p4).

Competition with alien plant species and habitat degradation by feral and domestic animals are the major threats to *Melicope knudsenii*. On Kauai, this species competes with lantana and is affected by feral goats and pigs. On Maui, *M knudsenii* grows in an area currently grazed by domestic cattle, where a continuous mat of Kikuyu grass prevents seedlings from establishing. Feral goats and feral pigs are also present in the area of the Maui population, and *Axis axis* (axis deer), found on the south slope of Haleakala Mountain and increasing in numbers, are a potential threat. This species is potentially threatened by black twig borer, a ubiquitous insect which lives at elevations up to 2,500 ft (670 m) in Hawaii and is known to infest members of *Melicope* This species is also threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (HHP 1991p2 to 1991p4, Hara and Beardsley 1979; Medeiros *et al.* 1986; van Riper and van Riper 1982; Patrick Beil, Puu mahoe Arboretum, R. Hobdy, A. Medeiros, and Steve Montgomery, Bishop Museum, pers. comms., 1991).

Hillebrand (1888) described *Pelea pallida* based upon a specimen he collected on Oahu. The specific epithet refers to the plant's pale leaf veins and lower leaf surfaces. Drake del Castillo (1890) transferred the species to the genus *Evodia*, a combination not accepted by other taxonomists. Faurie described *P. leveillei* in 1912 based upon a specimen collected on Kauai (Stone 1969). Following the transfer of the genus *Pelea* to *Melicope* (Hartley and Stone 1989, Wagner *et al.* 1990), authors of the current treatment of the Hawaiian members of the genus (Stone *et al.* 1990) now consider *Evodia pallida*, *P. pallida*, and *P. leveillei* to be synonyms of *Melicope pallida*

Melicope pallida, a member of the citrus family, is a 20 to 33 ft (6 to 10 m) tree with grayish white hairs and black, resinous new growth The leaves, 2.4 to 8.3 in (6 to 21 cm) long and 1 to 3.1 in (2.5 to 8 cm) wide, are grouped in threes, with each leaf loosely folded. Fifteen to 35 pale yellowish-green flowers are also clustered in groups of 3 along a fuzzy white stalk up to 2.4 in (6 cm) long. The petals are usually lance-shaped and measure 0.1 to 0.2 in (3.5 to 5 mm) long. Fruits contain two shiny black seeds about 0.1 in (3.5 mm) long in each of the usually four distinct carpels. This species differs from *M haupuensis*, *M knudsenii*, and other members of the genus by the following combination of characteristics: Resinous new growth, leaves folded and in clusters of three, and fruits with separate carpels (Degener *et al.* 1960, Hillebrand 1888, St. John 1944, Stone *et al.* 1990, Wagner *et al.* 1990).

Historically, *Melicope pallida* was known from various locations in the Waianae Mountains on Oahu and from Hanapepe on Kauai (HHP 1991q2 to 1991q4, 1991q7). This species is now known from two locations at the base of Mount Kaala and near Palikea, within TNCH's privately-owned Honouliuli Preserve in the Waianae Mountains on Oahu; and from four State-owned locations on Kauai in Kalalau Valley, Koaie Stream in Waimea Canyon, and Hanakapiai Valley (HHP 1991q1, 1991q6, 1991q8; T. Flynn, J Lau, and S. Montgomery, pers. comms., 1991). The population near Palikea was last visited in 1960 (HHP 1991q1); it is thought to contain only a few plants. Fewer than five plants are known from the island of Oahu (S. Montgomery, pers. comm., 1991). One population of about 65 plants was discovered in 1991 near the rim of Kalalau Valley (Kenneth Wood, HPCC, pers. comm., 1991), giving a total of about 75 known plants for this species. *Melicope pallida* usually grows on steep rock faces in drier regions of lowland mesic forests at an elevation of 1,600 to 2,000 ft (490 to 610 m) (Stone *et al.* 1990; J Lau, pers. comm., 1991). Associated plant species include *Alyxia oliviformis* (maile), *Pipturus albidus* (mamaki), and *Sapindus oahuensis* (lonomea) (HHP 1991q1, 1991q5, 1991q8; J Lau, pers. comm., 1991).

The major threats to *Melicope pallida* are habitat destruction by feral animals and competition with alien plant species. On Kauai, feral goats and feral pigs destroy habitat of *Melicope pallida*, and weeds such as common guava, daisy fleabane, and prickly Florida blackberry compete with the species The Oahu populations of *Melicope pallida* face strong competition from introduced plants, especially *Clidemia hirta* (Koster's curse) and *Toona ciliata* (Australian red cedar) A potential threat to *Melicope pallida* is the black twig borer, which is known to occur in areas where this species grows and to feed on members of the genus *Melicope* An additional threat to *Melicope pallida* is stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (Hara and Beardsley 1979; HHP 1991q6, 1991q8; Medeiros *et al.* 1986; T. Flynn, J Lau, S. Montgomery, and K. Wood, pers comms., 1991).

St. John and Edward P. Hume described *Melicope quadrangularis*, based upon a specimen collected by Forbes on Kauai in 1909 (St. John 1944) The specific epithet, meaning "four-angled," describes the cube-shaped capsule Hartley and Stone (1989) synonymized the genus *Pelea* with *Melicope*, resulting in the combination *M quadrangularis*

Melicope quadrangularis, a member of the citrus family, is a shrub or small tree Young branches are generally covered with fine yellow fuzz but become hairless with age The thin, leathery, elliptical leaves, 3.5 to 6 in (9.5 to 16 cm) long and 2 to 3 in (4.5 to 7.5 cm) wide, are oppositely arranged The upper leaf surface is hairless, and the lower surface is sparsely hairy, especially along the veins. Flowers are solitary or in clusters of two The specific floral details are not known. The fruits are somewhat cube-shaped, flattened capsules, about 0.5 in (13 mm) long and about 0.8 in (19 to 22 mm) wide with a conspicuous central depression at the top of the fruit. The capsules are four-lobed and completely fused. The exocarp is sparsely hairy, and the endocarp is hairless. This species differs from others in the genus in having the following combination of characters Oppositely arranged leaves, only one or two flowers per cluster, cube-shaped capsules with fused lobes, and a deep central depression at the top of the fruit (St. John 1944, Stone 1969, Stone *et al* 1990).

Melicope quadrangularis is known from the type locality in the Wahiawa Bog region of Kauai (HHP 1991r1, Stone *et al* 1990) Previously thought to be extinct, this plant was rediscovered when one adult plant and two seedlings were found in 1991 in that area by Ken Wood of HPCC. The plants were found on an east-facing slope of Wahiawa ridge at 2,800 ft (850 m) in elevation on privately-owned land. The plants are growing in a diverse lowland forest that ranges from mesic to wet conditions with other plants, such as opuhe, uluhe, *Broussaisia arguta* (kanawao), *Cyrtandra pickeringii* (ha'iwale), and other *Melicope* species (alani), and abundant ferns and mosses (K Wood, pers comm., 1991)

Melicope quadrangularis is threatened by competition with Java

plum and prickly Florida blackberry. The existence of only three known plants of this species, of which only one is a mature individual, causes the species to be threatened by stochastic extinction and/or reduced reproductive vigor (Hara and Beardsley 1979; K. Wood pers. comm., 1991).

Forbes collected specimens of a tree on Kauai in 1916 which he described the following year (1917b) as *Tetraplasandra racemosa*. The specific epithet describes the inflorescence, which Forbes considered a raceme. Sherff (1952) transferred the species to the new endemic, monotypic genus *Munroidendron*, named in honor of George C. Munro, who was apparently the first to recognize the plant as a new taxon. Sherff (1952) also published two varieties, *Munroidendron racemosum* var. *forbesii* and *M. racemosum* var. *macdanielsii*. In the current treatment of the species, Porter P. Lowrey II (1990) recognizes no subspecific taxa.

Munroidendron racemosum, a member of the ginseng family (Araliaceae), is a tree up to about 23 ft (7 m) in height with a straight gray trunk crowned with spreading branches. The leaves are 6 to 12 in (15 to 30 cm) long and comprise five to nine oval or elliptical leaflets with clasping leaf stalks. Each leaflet is 3.1 to 6.7 in (8 to 17 cm) long and usually 1.6 to 3.9 in (4 to 10 cm) wide. About 250 pale yellow flowers are borne along a stout hanging stalk 10 to 24 in (25 to 60 cm) long. Each flower has five or six lance-shaped petals 0.3 to 0.4 in (8 to 10 mm) long emerging from a cup-shaped or ellipsoid calyx tube. Both the lower surface of the petals and the calyx tube are covered with whitish scaly hairs. The fruit is an egg-shaped drupe 0.3 to 0.5 in (8 to 12 mm) long and nearly as wide, situated atop a flat, dark red disk (stylopodium). This species is the only member of a genus endemic to Hawaii. The genus differs from other closely related Hawaiian genera of the family primarily in its distinct flower clusters and corolla (Forbes 1917b, Lamoureux 1982, Lowrey 1990, St. John 1981b, Sherff 1952).

Historically, *Munroidendron racemosum* was known from scattered locations throughout the island of Kauai (HHP 1991s1, 1991s3, 1991s6, 1991s13). Fifteen populations are now found at elevations of 390 to 1,301 ft (120 to 400 m) on private and State land in the following areas. Along the Na Pali coast within Na Pali Coast State Park and Hono O Na Pali NAR, in the Poomau and Koaie branches of Waimea Canyon, in the Haupu Range area, and on Nounou Mountain (HHP 1991s1 and 119s12, 1991s14, 1991s15, Lamoureux 1982). Although widely distributed, the largest population contains fewer than 50 individuals, with most populations numbering only 1 or 2 individuals. Estimates of the total number of individuals range from 57 to 100 (HHP 1991s1 to 1991s15). Most populations are found on steep exposed cliffs or on ridge slopes in coastal to lowland mesic forests (Lowrey 1990), but a few populations are in mesic *Pandanus tectorius* (hala) forests, lantana-dominated shrubland, or *Eragrostis* grassland. Other associated plant species include common guava, kopiko, kukui, and lama (Gagne and Cuddihy 1990; HHP 1991s1, 1991s3 to 1991s5, 1991s8 to 1991s11, 1991s15); Lamoureux 1982; Stone 1967).

Competition with introduced plants is the major threat to *Munroidendron racemosum*. Kukui and ti, plants introduced by Polynesian immigrants to the Hawaiian Islands, compete with this species for space in the forests of Kauai. Other introduced plants threatening this species' habitat include Chinaberry, common guava, firetree, koa haole, lantana, and *Triumfetta semitriloba* (Sacramento bur). Feral goats degrade the habitat of *Munroidendron*, and cattle were formerly present in areas where the trees grow. Predation of the fruit by rats is probable, and an introduced insect of the family Cerambycidae (longhorned beetles) that killed a mature, cultivated tree has the potential of affecting wild trees. Because each population of this species contains only one or a few trees, the total number of individuals is small, threatening the species by stochastic extinction and/or reduced reproductive vigor (HHP 1991s1, 1991s3 to 1991s5, 1991s8 to 1991s11, 1991s15; HPCC 1990k]; Lamoureux 1982).

First collected on Kauai before 1990, *Nothocestrum peltatum* was described by Carl J. F. Skottsberg in 1944, based on a specimen collected by Olof H. Selling in 1938. The specific epithet refers to the peltate leaves, attached to the stalk by the lower surface, inside the leaf margin rather than at its edge. St. John (1986) later described *N. inconcinnum*, but David E. Symon (1990), in the currently accepted treatment of the genus, regards that name as a synonym of *N. peltatum*.

Nothocestrum peltatum, a member of the nightshade family (Solanaceae), is a small tree up to 16 ft (5 m) tall with ash-brown bark and woolly stems. The leathery leaves are usually peltate, measure 2.4 to 9.1 in (6 to 23 cm) long and 1.4 to 3 in (3.5 to 7.5 cm) wide, and vary in shape from oval or elliptic to oblong. The densely hairy flowers number up to 10 per cluster. The corolla is believed to be greenish yellow and 0.5 to 0.6 in (12 to 14 mm) long. The orange berries are 0.5 to 0.6 in (13 to 14 mm) long and contain numerous irregularly shaped seeds about 0.1 in (2.5 mm) in diameter. The usually peltate leaves and shorter leaf stalks separate this species from others in the genus (St. John 1986, Selling 1947, Skottsberg 1944, Symon 1990).

Historically, *Nothocestrum peltatum* was known from Kauai at Kumuweia, Kaholuamanu, and the region of Nualolo (HHP 1991t3, 1991t5, 1991t6). This species is now known from seven populations on Kauai located near the Kalalau Lookout area, in Awaawapuhi and Makaha Valleys, and in Waimea Canyon (HHP 1991t1, 1991t2, 1991t4, 1991t7; HPCC 1990i1, 1990i2, 1990i4; S. Perlman, pers. comm., 1991), scattered over a 5.5 by 2.5 mi (8.9 by 4 km) area. All 7 populations, totalling about 12 individuals (CPC 1989b, 1990), are on State-owned land between 3,000 and 4,000 ft (915 and 1,220 m) in elevation (Symon 1990). This species generally grows in rich soil on steep slopes in montane mesic forests dominated by koa or a mixture of 'ohi'a and koa, with associates such as hame, uluhe, *Bobea brevipes* ('ahakea lau li'i), *Elaeocarpus bifidus* (kalia), and more common *Melicope* species (alani) (HHP 1991t1, 1991t7, Sohmer and Gustafson 1987; J. Lau, pers. comm., 1991).

Competition with alien plants and habitat degradation by introduced animals constitute the major threats to *Nothocestrum peltatum*. Introduced plants competing with this species include banana poka, daisy fleabane, lantana, prickly Florida blackberry, and *Passiflora edulis* (passion fruit). Animals disturbing the habitat of this species include feral goats, feral pigs, mule deer, and *Gallus gallus* (red jungle fowl). Although plants of this species flower, they rarely set fruit; this could be the result of a loss of pollinators or reduced genetic variability (S. Perlman, pers. comm. 1991). This species is threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (HHP 1991t7; HPCC 1990i3, 1990i4).

Hillebrand (1988) described *Peucedanum sandwicense* based upon a specimen collected on Molokai and *P. kauaiense* based upon a specimen collected on Kauai. He also referred to an unnamed variety of *P. sandwicense* from Maui. Otto and Isa Degener (1960) later named the Maui plant *P. sandwicense* var. *hiroi*. In their current treatment, Lincoln Constance and James Affolter (1990) recognize only *P. sandwicense* for all populations of the genus in the Hawaiian Islands

Peucedanum sandwicense, a member of the parsley family (Apiaceae), is a parsley-scented, sprawling herb usually 20 to 40 in (0.5 to 1 m) tall. Hollow stems arise from a short, vertical, perennial stem with several fleshy roots. The compound leaves are generally three-parted with stalkless leaflets, each egg- or lance-shaped and toothed. The larger terminal leaflet is usually one- to three-lobed and 2.8 to 5.1 in (7 to 13 cm) long. The other leaflets have leaf stalks 4 to 20 in (10 to 50 cm) long or are stalkless. Flowers are clustered in a compound umbel of 10 to 20 flowers. The round petals are white and bent inward at the tips. The flat, dry, oval fruits are 0.4 to 0.5 in (10 to 13 mm) long and 0.2 to 0.3 in (5 to 8 mm) wide, splitting in half to release a single flat seed. This species is the only member of the genus in the Hawaiian Islands, one of three genera of the family with taxa endemic to the island of Kauai. This species differs from the other Kauai members of the parsley family in having larger fruit and pinnately compound leaves with broad leaflets (Constance and Affolter 1990, Degener and Constance 1959, Degener and Degener 1960, Hillebrand 1888).

Historically, *Peucedanum sandwicense* was known from three islands: Kalaupapa and Waikolu on Molokai, Wailuku and Waiehu on Maui, and various locations in the Waimea Canyon and Olokele regions of Kauai (HHP 1991u1, 1991u2, 1991u4, 1991u7, 1991u9 to 1991u12). Discoveries in 1990 extended the known distribution of this species to the island of Oahu, where 2 populations totalling about 85 individuals exist in the Waianae Mountains on County and State land (J. Lau, *in litt.* and pers. comm., 1991; J. Obata, pers. comm., 1990). One population of 20 to 30 individuals is known from State-owned Keopuka Rock, an islet off the coast of Maui (HHP 1991u8; Hobdy 1982; R. Hobdy, pers. comm., 1991). On Molokai, three populations totalling fewer than 30 individuals are found on private and State-owned land in Pelekunu Preserve, Kalaupapa National Historical Park, and Huelo, an islet off the coast of Molakai (HHP 1991u7, 1991u16, 1991u20; S. Perlman, pers. comm., 1991). The 10 Kauai populations of 130 to 190 individuals are distributed in Waimea Canyon and along the Na Pali coast within 1.5 mi (2.4 km) of the ocean (HHP 1991u1, 1991u3, 1991u5, 1991u6, 1991u13 to 1991u15, 1991u17 to 1991u19; T. Flynn, pers. comm., 1991). These populations are found within a 7 by 8 mi (11 by 13 km) area on private and State land. The total number of plants in the 18 known populations of this species is estimated to be between 250 and 350. This species grows in cliff habitats (Constance and Affolter 1990) in coastal to lowland, dry to mesic shrublands and forests with such plant associates as 'akoko, kawelu, lama, 'ohi'a, *Artemisia australis* ('ahinahina), and alien species such as common guava and lantana (HHP 1991u1 to 1991u3, 1991u5 to 1991u8, 1991u14 to 1991u18, 1991u20; J. Lau, *in litt.* and pers. comm., 1991).

Competition with introduced plants and habitat degradation and browsing by feral goats are the major threats to *Peucedanum sandwicense*. Kauai populations are affected by alien plant species such as banana poka, common guava, daisy fleabane, firetree, introduced grasses, Java plum, and lantana, as well as by feral goats. The Hanakapiai population on Kauai is close enough to the trail that it is potentially affected by hikers and trail clearing. Oahu populations are threatened by alien plants such as Christmas berry, common guava, daisy fleabane, Hamakua pamakani, silk tree, and *Stachytarpheta*; feral goats; and landslides. The Kalaupapa, Molokai, population of *P. sandwicense* competes with Christmas berry common guava, and molasses grass. The Pelekunu, Molokai, population is threatened by common guava, Hamakua pamakani, *Ageratina adenophora* (Maui pamakani), and potentially by axis deer. Plants of this species on Huelo are vulnerable to natural rock slides. The population on Keopuka Rock is threatened by alien grasses, lantana, and sourbush (Clarke and Cuddihy 1980; HHP 1991u1, 1991u3, 1991u5, 1991u15, 1991u16; HPCC 1990j1 to 1990j3; R. Hobdy, J. Lau, J. Obata, and S. Perlman, pers. comms., 1991).

Wawra collected a specimen of *Phyllostegia waimeae* on Kauai in 1870 while he was a member of the Austrian East Asiatic Exploring Expedition. In 1872 he described the species, naming it for Waimea Canyon where he collected it. St. John (1987c) recently published many species, varieties, and combinations in *Phyllostegia*, one or more of which may fit into this species (Wagner *et al.* 1990).

Phyllostegia waimeae, a nonaromatic member of the mint family (Lamiaceae), is a climbing perennial plant with hairy four-angled stems that are woody at the base. The oval leaves are 2 to 5 in (5 to 13 cm) long, 1 to 2.4 in (2.5 to 6 cm) wide, and have rounded, toothed margins. They are wrinkled and sparsely dotted with oil glands. Flowers grow in groups of six along an unbranched leafy stalk usually 3.9 to 5.9 in (10 to 15 cm) long. The bracts below each flower stalk are broad and partially overlap the flowers. The calyx resembles an inverted cone with broad lobes. The corolla, 0.3 to 0.5 in (8 to 12 mm) long, is pinkish or may be white. The fruits, probably nutlets, have not been observed. Characteristics that distinguish this species from others in the genus are the nearly stalkless bracts that partially overlap and cover the flowers and relatively fewer oil glands on the leaves (Hillebrand 1888, Sherff 1935a, Wagner *et al.* 1990, Wawra 1872).

Historically, *Phyllostegia waimeae* was known from Kaholuamanu and Kaaha on Kauai (HHP 1991v2, 1991v3). More recently, it has been observed from State land on Kauai in the Halemanu and Waimea Canyon areas (HHP 1991v1, 1991v4). Because the Halemanu population had not been seen for almost 40 years (HHP 1991v1), the number of extant individuals is unknown. The Waimea Canyon population consists of a single plant (R. Hobdy, pers. comm., 1991). This species typically grows on shallow to deep, well-drained soils in clearings (HHP 1991v1) or along the banks of streams of diverse montane mesic to wet forests at elevations from 3,000 to 3,600 ft (915 m to 1,100 m) (Wagner *et al.* 1990). Associated species include 'ohi'a and *Pritchardia minor* (loulu) (HHP 1991v4).

Habitat destruction by feral goats, erosion, and competition with introduced grasses are the major threats to *Phyllostegia waimeae*. The species is also threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (R. Hobdy, pers. comm., 1991).

Based upon a specimen collected by Duvel and Harold L. Lyon in 1925, Edward L. Caum (1933) described *Pteralyxia kauaiensis*, named for the island where it grows. St. John (1981a) later published *P. elliptica*, but the authors of the current treatment of the genus (Wagner *et al.* 1990) regard that name to be synonymous with *P. kauaiensis*.

Pteralyxia kauaiensis, a member of the dogbane family (Apocynaceae), is a tree 10 to 26 ft (3 to 8 m) tall. The leaves are dark green and shiny on the upper surfaces but pale and dull on the lower surfaces. They are generally egg-shaped and usually 4.3 to 8.7 in (11 to 22 cm) long and 1.6 to 2.6 in (40 to 65 mm) wide. The pale yellow flowers are trumpet-shaped, 0.3 to 0.5 in (8 to 12 mm) long, with each of the five lobes 0.1 to 0.2 in (3 to 4 mm) long. The paired fruits, of which usually only one matures, are drupe-like, bright red, and fleshy. The woody endocarp that encloses the single

seed has two prominent central wings and two reduced lateral wings. This species differs from the only other species in this endemic Hawaiian genus in having reduced lateral wings on the seed (Caum 1933; Degener 1933, 1936; Lamb 1981; St. John 1981a; Wagner *et al.* 1990).

Historically, *Pteralyxia kauaiensis* was known from the Wahiawa Mountains in the southern portion of Kauai (HHP 1991w8). This species is now known from the following scattered locations on private and State land on Kauai at elevations between 820 and 2,000 ft (250 and 610 m) (Wagner *et al.* 1990): Mahanaloa-Kuia Valley in Kuia NAR, Haeleele Valley, Na Pali Coast State Park, Limahuli Valley, the Koaie branch of Waimea Canyon, Haupu Range, Wailua River, and Moloaa Forest Reserve (HHP 1991w1 to 1991w7, 1991w9, 1991w10, 1991w11; HPCC 1990k1; T. Flynn and S. Montgomery, pers. comms., 1991). There is an undocumented sighting of one individual at Makaleha, above the town of Kapaa (T. Flynn, pers. comm., 1991). The 13 known populations, totaling 170 to 300 individuals, typically grow on the sides of gulches in diverse lowland mesic forests and sometimes lowland wet forests (Wagner *et al.* 1990). Associated plant species include hame, lama, lantana, 'ohi'a, and *Pouteria sandwicensis* ('ala'a) (Degener 1936; HHP 1991w1 to 1991w7, 1991w10; D. Herbst, pers. comm., 1991).

The major threats to *Pteralyxia kauaiensis* are habitat destruction by feral animals and competition with introduced plants. Animals affecting the survival of this species include feral goats, feral pigs, and possibly rats, which may eat the fruits. Introduced plants competing with this species include common guava, daisy fleabane, kukui, lantana, strawberry guava, and ti (HHP 1991w1, 1991w4, 1991w5, 1991w7; HPCC 1990k1, 1990k2; T. Flynn and S. Perlman, pers. comms., 1991).

Gray (1854) described *Schiedea spergulina* based upon a specimen collected in 1840 on Kauai during the United States Exploring Expedition. The specific epithet means "resembling *Spergula*," another genus in the same plant family. Two varieties of *S. spergulina* are recognized in the current treatment of the genus (Wagner *et al.* 1990): The typical variety, which includes var. *degeneriana*, named by Sherff (1956); and var. *leiopoda* (Sherff 1944), which includes var. *major*, also named by Sherff (1944).

Schiedea spergulina, a member of the pink family (Caryophyllaceae), is a 1 to 2 ft (30 to 60 cm) tall subshrub. The opposite leaves are very narrow, usually 1.2 to 2.6 in (30 to 65 mm) long and about 0.04 in (0.8 to 1.4 mm) wide, one-veined, and attached directly to the stem. The flowers are unisexual, with male and female flowers on different plants. Flowers occur in compact clusters of three. The sepals usually number five and are green and purple-tinged, 0.08 to 0.13 in (2 to 3.3 mm) long. The capsular fruits are about 0.08 to 0.12 in (2 to 3 mm) long and contain nearly smooth, kidney-shaped seeds. Of the 22 species in this endemic genus, only 2 other species have smooth seeds. This species differs from those two in having very compact flower clusters. The two weakly defined varieties differ primarily in the degree of hairiness (Heller 1897; Hillebrand 1888; Sherff 1944, 1945; Wagner *et al.* 1990).

Historically, *Schiedea spergulina* var. *leiopoda* was found on a ridge on the east side of Hanapepe on Kauai (HHP 1991x1). One population of 50 to 100 individuals of this variety is now known to grow in Lawai Valley on Kauai on privately-owned land (HHP 1991x2; T. Flynn, J. Lau, and S. Perlman, pers. comms., 1991). *Schiedea spergulina* var. *spergulina* is more numerous, once found in Olokele Canyon but now known to grow at four locations in Waimea Canyon on State land (HHP 1991y1 to 1991y5). One population contains only five plants, whereas others number in the thousands (HHP 1991y1 to 1991y5; T. Flynn, pers. comm., 1991). However, these 4 populations are estimated to total no more than 5,000 individuals. This taxon is usually found on bare rock outcrops, sparsely vegetated portions of rocky cliff faces, or cliff bases in diverse lowland mesic forests at elevations between 590 and 820 ft (180 and 250 m) (Wagner *et al.* 1990). Plants associated with the Lawai population of *S. spergulina* var. *leiopoda* are *Bidens sandvicensis* (ko'oko'olau), *Dryopteris*, and *Plectranthus parviflorus* ('ala'ala wai nui) (T. Flynn and J. Lau, pers. comms., 1991). Plant species associated with *S. spergulina* var. *spergulina* include 'ahinahina, Chinaberry, lantana, Sacramento bur, and *Nototrichium* sandwicense (kulu'i) (HHP 1991y5, Sherff 1956).

The major threats to *Schiedea spergulina* are habitat destruction by feral goats and competition with introduced plants. Variety *leiopoda* competes with alien plant species such as koa haole, lantana, and *Furcraea foetida* (Mauritius hemp). Individuals are also damaged and destroyed by rock slides. This variety is threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals (CPC 1990; T. Flynn, pers. comm., 1991). Variety *spergulina* competes with alien species, including Chinaberry, lantana, and Sacramento bur. The area in which this variety grows is used heavily by feral goats, and there is evidence that plants are being browsed and trampled (HHP 1991y2, 1991y5; T. Flynn, J. Lau, and S. Perlman, pers. comms., 1991).

William Jackson Hooker and G.A.W. Arnott (1830–1841) described *Solanum sandwicense* based upon a specimen collected in 1826 or 1827 on Oahu during the voyage of H.M.S. *Blossom*. The plant was named for the Sandwich Islands, an older name for the Hawaiian Islands. Other names by which portions of this taxon have been known include: *S. hillebrandii* (St. John 1969a), *S. kauaiense* (Hillebrand 1888), *S. sandwicense* var.? *kavaiense* (Gray 1862), *S. woahense* (Dunal 1852), and *S. woahense* var. *eroso-crenulatum* (Dunal 1852). In the current treatment of this genus, Symon (1990) considers both Oahu and Kauai populations as *Solanum sandwicense* and recognizes no subspecific taxa.

Solanum sandwicense, a member of the nightshade family, is a large sprawling shrub that grows up to 13 ft (4 m) tall. The younger branches are more densely hairy than older branches. The oval leaves are usually 4 to 6 in (10 to 15 cm) long and 2 to 5.5 in (5 to 14 cm) wide and have up to four lobes along the margins. Leaf stalks are 0.8 to 1.6 in (2 to 4 cm) long. On the flowering stem, a few up to 40 flowers are grouped in threes, with each flower on a stalk about 0.6 in (15 mm) long, bent at the end so that the flower faces downward. The corolla is white with a faint purplish stripe, each lobe curved somewhat backward. Stamens are attached low on the corolla tube, with anthers curved inward. The fruit is a berry 0.5 to 0.6 in (13 to 15 mm) in diameter, black when ripe. This species differs from others of the genus in having dense hairs on young plant parts, a greater height, and its lack of prickles (Gray 1862, St. John 1969a, Sohmer and Gustafson 1987, Symon 1990).

Historically, *Solanum sandwicense* was known from widely scattered populations throughout the Waianae Mountains and southern portions of the Koolau Mountains on Oahu (HHP 1991z1 to 1991z5, 1991z7 to 1991z10). On Kauai, this species was known from locations in the Kokee region bounded by Kalalau Valley to the north, Milolii Ridge to the west, and Kawaikoi to the east, extending southward to the Hanapepe River (HHP 1991z13 to 1991z17, 1991z21, 1991z22, 1991z24). On Oahu, this species was known from a single population in what is now Honouliuli Preserve until

about 1986, when it was discovered that the last remaining plant had been destroyed by a landslide (HHP 1991z6; J. Obata, pers. comm., 1991). All extant populations are now found on the island of Kauai; they are on private and State land, and most are from Kokee and Na Pali Coast State Parks. Of the 11 known populations, only 7 have been observed since 1960; they total about 15 plants (Bruegmann 1990; CPC 1990; HHP 1991z11, 1991z12, 1991z19, 1991z20, 1991z26; D. Herbst, pers. comm., 1991). This species is typically found in open, sunny areas at elevations between 2,500 and 4,000 ft (760 and 1,220 m) in diverse lowland to montane mesic forests and occasionally in wet forests (HHP 1991z1, 1991z11, 1991z16, 1991z19 to 1991z26; Symon 1990). Associated plant species include koa, 'ohi'a, uluhe, and wet forest plants such as kopiko, *Athyrium sandwicensis* (ho'i'o), and more common *Melicope* species (alani) (HHP 1991z11, 1991z18, 1991z20, 1991z26).

The major threats to *Solanum sandwicense* on Kauai are habitat degradation by feral pigs and competition with alien plant species. Alien species that have heavily invaded this species' habitat on Kauai include: Banana poka, prickly Florida blackberry, *Hedychium gardnerianum* (kahili ginger), and *Lonicera japonica* (honeysuckle). This species is also threatened by stochastic extinction and/or reduced reproductive vigor due to the small number of existing individuals. All Oahu populations of *Solanum sandwicense* are now apparently extinct, the result of its habitat being destroyed by urbanization, feral pigs, and weedy alien species (Bruegmann 1990; (HHP 1991z1 to 1991z7, 1991z18, 1991z25; HPCC 1990m; R. Hobdy, J. Lau, J. Obata, and S. Perlman, pers. comms., 1991).

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Brighamia insignis* (as *B. insignis* and *B. citrina* var. *napaliensis*), *Delissea rhytidosperma*, *Exocarpos luteolus*, *Hibiscus clayi* (as *H. clayi* and *H. newhousei*), *Lipochaeta fauriei*, *Lipochaeta micrantha* (as *L. exigua*), *Melicope haupuensis* (as *Pelea haupuensis*), *Melicope knudsenii* (as *Pelea multiflora*), *Melicope pallida* (as *Pelea pallida* and *P. leveillei*), *Melicope quadrangularis* (as *Pelea quandrangularis*), *Nothocestrum peltatum*, *Peucedanum sandwicense* (as *P. kauaiense*), *Pteralyxiz kauaiensis*, and *Solanum sandwicense* were considered to be endangered. *Diellia laciniata*, *Lipochaeta micrantha*, *Lipochaeta waimeaensis*, *Lysimachia filifolia*, and *Salonum sandwicense* (as *S. kauaiense*) were considered to be threatened. *Hedyotis cookiana*, *Melicope knudsenii* (as *Pelea knudsenii* and *P. tomentosa*), *Munroidendron racemosum* (as *M. racemosum* var. *macdanielsii*), and *Solanum sandwicense* (as *S. hillebrandii*) were considered to be extinct.

On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27832) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including all of the above taxa considered to be endangered or thought to be extinct. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1979, proposal that had not been made final, along with four other proposals that had expired.

The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). In these notices, 10 of the taxa (including synonymous taxa) that had been in the 1976 proposed rule were treated as Category 1 candidates for Federal listing. Category 1 taxa are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals. Other than *Diellia laciniata*, *Hedyotis cookiana*, *Lipochaeta fauriei*, *Lipochaeta micrantha* (as *L. exigua*), *Lysimachia filifolia*, *Melicope knudsenii* (as *Pelea knudsenii*), *Melicope pallida*, *M. quadrangularis*, *Peucedanum sandwicense*, and *Solanum sandwicense* (as *S. hillebrandii*), all the aforementioned taxa that were either proposed as endangered or thought to be extinct in the June 16, 1976, proposed rule were considered Category 1 candidates on all three notices of review.

In the 1980 and 1985 notices, *Lipochaeta fauriei*, *Melicope knudsenii* (as *Pelea knudsenii*), and *Solanum sandwicense* (as *S. hillebrandii*) were considered Category 1* species. Category 1* taxa are those which are possibly extinct. *Lysimachia filifolia* appeared as a Category 2 species and *Hedyotis cookiana* as a Category 3A species in the 1980 and 1985 notices. Category 2 taxa are those for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at the time. Category 3A taxa are those for which the Service has persuasive evidence of extinction. Because new information indicated their current existence or provided support for listing, the above five taxa were conferred Category 1 status in the 1990 notice. *Lipochaeta exigua* appeared as a Category 3B species in the 1980 and 1985 notices; in the 1990 notice, it was considered synonymous with *L. micrantha*, a category 1 species. Category 3B taxa are those which, on the basis of current taxonomic understanding, do not represent distinct taxa meeting the Act's definition of "species." *Diellia laciniata*, *Melicope pallida*, and *M. quadrangularis* were accorded Category 1* status in the 1990 notice, but because new information regarding their existence has become available, they are proposed herein for listing. In 1980, *Peucedanum sandwincense* appeared as a Category 2 species and retained that status in the 1985 and 1990 notices. Since the last notice, new information suggests that its numbers and distribution are sufficiently restricted to warrant listing. *Schiedea spergulina* first appeared on the 1985 notice of review as a Category 1 species. In the 1990 notice, two varieties were recognized: variety *spergulina* as a Category 1 taxon and variety *leiopoda* as a Category 1* taxon. Recently obtained information indicates that it is extant. *Cyrtandra limahuliensis* first appeared in the 1990 notice of review as a Category 1 species after it was described in 1987. The 1990 notice also recognized *Cyanea*

asarifolia and *Phyllostegia waimeae* as Category 1 species for the first time.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these taxa was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, Pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, and 1990. Publication of the present proposal constitutes the final 1-year finding for these taxa.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered species due to one or more of the five factors described in section 4(a)(1). The threats facing these 23 species are summarized in Table 1.

TABLE 1.—SUMMARY OF THREATS

Species	Alien mammals					Alien plants	Fire	Substrate loss*	Human impacts	Limited numbers**
	Cattle	Deer	Goats	Pigs	Rats					
Brighamia insignis			X			X	X	X	X	X[1,2]
Cyanea asarifolia				P		P		X		X[1,2]
Cyrtandra limahuliensis				X		X		X		
Delissea rhytidosperma		X	X	X	X	X	X	X	P	X[1,3]
Diellia laciniata		X	X	X		X		X		X[1,2]
Exocarpos luteolus			X	X	X	X	X	X	P	X[1,2]
Hedyotis cookiana			P	P		P				X[1,2]
Hibiscus clayi				P		X			X	X[1,2]
Lipochaeta fauriei			X	X		X	X			X[1,2]
Lipochaeta micrantha			X	X		X				X[1]
Lipochaeta waimeaensis						X		X	P	X[1,3]
Lysimachia filifolia				P		X		X		X[1]
Melicope haupuensis			X			X			P	X[1,3]
Melicope Knudsenii	X	P	X	X		X	P			X[1,2]
Melicope pallida			X	X		X	X			X[2]
Melicope quadrangularis						X			P	X[1,3]
Munroidendron racemosum			X		P	X	X			X[2]
Nothocestrum peltatum		X	X	X		X	X		P	X[2]
Peucedanum sandwicense		P	X			X	X	X	X	
Phyllostegia waimeae			X			X		X	P	X[1,3]
Pteralyxia kauaiensis			X	X	P	X	X			
Schiedea spergulina			X			X		X		X[1]
Solanum sandwicense				X		X	X		P	X[2]

X=Immediate and significant threat
P=Potential threat
*=Substrate loss includes erosion, rock slides, and landslides
**=No more than 100 individuals and/or no more than 5 populations
[1]=No more than 5 populations
[2]=No more than 100 individuals
[3]=No more than 10 individuals

These factors and their application to *Brighamia insignis* A. Gray ('olulu), *Cyanea asarifolia* St. John (haha), *Cyrtandra limahuliensis* St. John (ha'iwale), *Delissea rhytidosperma* H. Mann (no common name (NCN)), *Diellia laciniata* (Hillebr.) Diels (NCN), *Exocarpos luteolus* C. Forbes (heau), *Hedyotis cookiana* (Cham. and Schlechtend.) Steud. ('awiwi), *Hibiscus clayi* Degener and I. Degener (Clay's hibiscus), *Lipochaeta fauriei* H. Levi. (nehe), *Lipochaeta micrantha* (Nutt.) A. Gray (nehe), *Lipochaeta waimeaensis* St. John (nehe), *Lysimachia filifolia* C. Forbes and Lydgate (NCN), *Melicope haupuensis* (St. John) Hartley and Stone (alani), *Melicope knudsenii* (Hillebr.) Hartley and Stone (alani), *Melicope pallida* (Hillebr.) Hartley and Stone (alani), *Melicope quadrangularis* (St. John and E. Hume) T. Hartley and B. Stone (alani), *Munroidendron racemosum* (C. Forbes) Sherff (NCN), *Nothocestrum peltatum* Skottsb. ('aiea), *Peucedanum sandwicense* Hillebr. (makou), *Phyllostegia waimeae* Wawra (NCN), *Pteralyxia kauaiensis* Cuam (kaulu), *Schiedea spergulina* A. Gray (NCN), and *Solanum sandwicense* Hook. and Arnott. (popolo'aiakeakua) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The habitats of the plants included in this proposed rule have undergone extreme alteration because of past and present land management practices, including deliberate alien animal and plant introductions, agricultural development, and recreational use. Natural disturbances such as storms and landslides also destroy habitat and can have a significant effect on small populations of plants. Destruction and modification of habitat by introduced animals and competition with alien plants are the primary threats facing the 23 species being proposed. (See Table 1.)

When Polynesian immigrants settled in the Hawaiian Islands, they brought with them water-control and slash-and-burn systems of agriculture and encouraged plants which they introduced to grow in valleys. Their use of the land resulted in erosion, changes in the composition of native communities, and a reduction of biodiversity (Cuddihy and Stone 1990; HHP 1990b; Kirch 1982; Wagner *et al.* 1985). Hawaiians settled and altered many areas of Kauai including areas in which some of the proposed species grew (DLNR 1981a; HHP 1990a, 1990b).

Many forested slopes were denuded in the mid 1800s to supply firewood to whaling ships, plantations, and Honolulu residents Native plants, such as the historic population of *Lipochaeta micrantha* var. *micrantha* in Koloa District (HHP 1991k4), were undoubtedly affected by this practice Also, sandalwood and tree fern harvesting occurred in many areas, changing forest composition and affecting native species (Cuddihy and Stone 1990).

Beginning with Captain James Cook in 1792, early European explorers introduced livestock, which became feral, increased in number and range, and caused significant changes to the natural environment of Hawaii The 1848 provision for land sales to individuals allowed large-scale agricultural and ranching ventures to begin. So much land was cleared for these enterprises that climatic conditions began to change, and the amount and distribution of rainfall were altered (Wenkham 1969) Plantation owners supported reforestation programs which resulted in many alien trees being introduced in the hope that the watershed could be conserved. Beginning in the 1920s, water collection and diversion systems were constructed in upland areas to irrigate lowland fields, and this undoubtedly destroyed individuals and populations of native plants. Some of the proposed taxa, such as a Kokee population of *Exocarpos luteolus* and a Waimea Canyon population of *Schiedea spergulina* var. *spergulina*, which now occur near ditches of the irrigation system, may have been affected (HHP 1991f4, 1991y2) The irrigation system also opened new routes for the invasion of alien plants and animals into native forests (Cuddihy and Stone 1990, Culliney 1988, Wagner *et al* 1990, Wenkam 1969).

Past and present activities of introduced alien mammals are the primary factor in altering and degrading vegetation and habitats on Kauai, Niihau, Oahu, Molokai, and Maui Feral ungulates trample and eat native vegetation and disturb and open new areas. This causes erosion and allows the entry of alien plant species (Cuddihy and Stone 1990, Wagner *et al* 1990) Eighteen species in this proposal are directly threatened by habitat degradation resulting from introduced ungulates. 15 species are threatened by goats, 11 by pigs, 3 by deer, and 1 by cattle In addition, an introduced ground-nesting bird threatens one species by disturbing its habitat

Capra hircus (goat), a species originally native to the Middle East and India, was successfully introduced to the Hawaiian Islands in 1792, and there currently are populations on Kauai, Oahu, Molokai, Maui, and Hawaii All feral goats were removed from Niihau about 1910, but by that time they had caused considerable damage to the dry and mesic forests there On Kauai, feral goats have been present in drier, more rugged areas since the 1820s; they still occur in Waimea Canyon and along the Na Pali coast, as well as in the drier perimeter of Alakai Swamp and even in its wetter areas during periods with low rainfall. Goats have been on Oahu since about 1920, and they currently occur in the northern Waianae Mountains. On Molokai, goats degrade dry forests at low elevations, and they are expanding their range (J Lau, pers. comm., 1991). On Maui, goats have been widespread for 100 to 150 years and are common throughout the south slope of Haleakala (Medeiros *et al* 1986). Goats are managed in Hawaii as a game animal, but many herds populate inaccessible areas where hunting has little effect on their numbers (HHP 1990c). Goat hunting is allowed year-round or during certain months, depending on the area (DLNR n.d.-a, n.d. b, n.d.-c, 1990) Goats browse on introduced grasses and native plants, especially in drier and more open ecosystems Feral goats eat native vegetation, trample roots and seedlings, cause erosion, and promote the invasion of alien plants. They are able to forage in extremely rugged terrain and have a high reproductive capacity (Clarke and Cuddihy 1980, Culliney 1988, Cuddihy and Stone 1990, Scott *et al* 1986, Tomich 1986, van Riper and van Riper 1982)

Although many of the proposed plants survive on steep cliffs inaccessible to goats, their original range was probably much larger. They are vulnerable to the long-term, indirect effects of goats, such as large-scale erosion (Corn *et al* 1979) The habitats of many of the 23 proposed plants were damaged in the past by goats, and these effects are still apparent today in the form of alien vegetation and erosion. One or more populations of 15 of the species are currently threatened by direct damage from feral goats, such as trampling of plants and seedlings and erosion of substrate (Clarke and Cuddihy 1980, Culliney 1988, Scott *et al* 1986, van Riper and van Pier 1982)

All known populations of the following taxa are threatened by goats. *Delissea rhytidosperma*, *Lipochaeta micrantha* var. *micrantha*, *Melicope haupuensis*, *Melicope knudsenii*, and both varieties of *Schiedea spergulina* Populations of other proposed taxa threatened by goats are: The Kalalau population of *Brighamia insignis*, the Koaie Canyon and Waimea Canyon rim populations of *Dielhia laciniata*, the Kalalau rim population of *Exocarpos luteolus*, the Hikimoe Valley and Koaie Canyon populations of *Lipochaeta fauriei*, the 3 Kauai populations of *Melicope pallida*, at least half of the 17 populations of *Munroidendron racemosum*, the Kalalau and Waimea Canyon populations of *Nothocestrum peltatum*, the Na Pali and Waimea Canyon populations and the Oahu populations of *Peucedanum sandwicense*, the Waimea Canyon population of *Phyllostegia waimeae*, and at least 5 of the 13 populations of *Pteralyxia kauaiensis* In addition, goats have probably invaded the area in which the only known population of *Hedyotis cookiana* occurs (Bruegmann 1990; HHP 1991a1, 1991e3, 1991f6, 1991i3, 1991k5, 1991o1, 1991o2, 1991p1 to 1991p4, 1991q6, 1991q8, 1991s1, 1991s8 to 1991s10, 1991s15, 1991t7, 1991u14, 1991w5, 1991y5, HPCC 1990a, 1990i4, 1990j2, 1990j3, 1990k1, 1990k2; Lammers 1990; Lamoureux 1982; Medeiros *et al* 1986; Perlman 1979; St John 1981b, Takeuchi 1982; C. Christensen, T. Flynn, R. Hobdy, J Lau, D Lorence S. Montgomery, S. Perlman, and K Wood, pers. comms., 1991)

Sus scrofa (pig) is a species originally native to Europe, northern Africa, Asia Minor, and Asia European pigs, introduced to Hawaii by Captain James Cook in 1778, became feral and invaded forested areas, especially wet and mesic forests and dry areas at high elevations They are currently present on Kauai, Oahu, Molokai, Maui, and Hawaii and inhabit rain forests and grasslands Pig hunting is allowed on all islands either year-round or during certain months, depending on the area (DLNR n d a, n.d.-b, n.d.-c, 1990) While rooting in the ground in search of the invertebrates and plant material they eat, feral pigs disturb and destroy vegetative cover trample plants and seedlings, and threaten forest regeneration by damaging seeds and seedlings. They disturb soil substrates and cause erosion, especially on slopes. Alien plant seeds are dispersed on their hooves and coats as well as through their digestive tracts, and the disturbed soil is fertilized by their feces, helping these plants to establish Pigs are a major vector in the spread of banana poka, firetree, and strawberry guava, and enhance populations of common guava, kahili ginger, Hamakua pamakani, prickly Florida blackberry, sweet granadilla, and yellow ginger, all of which threaten one or more of the

proposed species (Cuddihy and Stone 1990, Medeiros *et al* 1986, Scott *et al* 1986, Smith 1985, Stone 1985, Tomich 1986, Wagner *et al* 1990)

Feral pigs pose an immediate threat to one or more populations of 13 of the proposed species. At least one population of each of the following taxa is threatened by feral pigs. *Pteralyxia kauaiensis, Solanum sandwicense,* and each of the two varieties of *Lipochaeta micrantha.* Populations of other taxa threatened by feral pigs are: The Anahola Stream population of *Cyrtandra limahuliensis;* the only population of *Delissea rhytidosperma;* the Koaie Canyon population of *Diellia laciniata;* three of the five populations of *Exocarpos luteolus;* the Hikimoe Valley population of *Lipochaeta fauriei;* two populations of *Melicope knudsenii,* one each on both Kauai and Maui, the Kalalau rim population of *Melicope pallida,* and the Kalalau rim and Makaha Valley populations of *Nothocestrum peltatum.* Pigs also constitute a potential threat to the Wailua Stream populations of *Cyanea asarifolia* and *Cyrtandra limahuliensis,* the only population of *Hedyotis cookiana,* one of the four populations of *Hibiscus clayi,* and the only Kauai population of *Lysimachia filifolia* (Bruegmann 1990; HHP 1991f6, 1991p1, 1991p3; HPCC 1990i3, 1990i4, J. Obata, pers. comm., 1990; C. Christensen, T. Flynn, R. Hobdy, J. Lau, D. Lorence, and S. Perlman, pers. comms., 1991).

Bos taurus (cattle), the wild progenitor of which was native to Europe, north Africa, and southwestern Asia, was introduced to the Hawaiian Islands in 1793. Large feral herds developed as a result of restrictions on killing cattle decreed by King Kamehameha I. Feral cattle formerly occurred on Niihau, and, along with goats and *Ovis aries* (sheep), they caused much damage on the island (Stone 1985). On Kauai, parts of Kokee were leased for cattle grazing in the 1850s, and both sides of Waimea Canyon were supporting large cattle ranching operations by the 1870s (Joesting 1984, Ryan and Chang 1985). Cattle grazing began about 1920 in the Na Pali region (DLNR 1981a). Cattle roamed lowland areas and eventually began invading wet forests from adjacent mesic areas. Around 1900, Augustus Knudsen, the district forester of Kauai and a rancher, realizing the amount of destruction being caused to the forests by cattle, initiated some fencing (Daehler 1973). Sugar company interests funded additional fencing as well as feral cattle removal to protect the forest from further degradation and safeguard water reserves for their crops (Wenkam 1969). On Kauai, feral cattle were still present in Kokee as late as 1960 and in the Puu Ka Pele area in the 1980s. Feral cattle roamed Oahu, but most were removed by the early 1960s; today only a few can be found in the northwestern part of the island (J. Lau, pers. comm., 1990). Feral cattle were formerly found on Molokai and Maui and damaged the forests there. Hunting of feral cattle was once permitted, but is no longer allowed in Hawaii (DLNR 1985). Cattle eat native vegetation, trample roots and seedlings, cause erosion, create disturbed areas into which alien plants invade, and spread seeds of alien plants in their feces and on their bodies. The forest in areas grazed by cattle becomes degraded to grassland pasture, and plant cover is reduced for many years following removal of cattle from an area. Several alien grasses and legumes purposely introduced for cattle forage have become noxious weeds (Cuddihy and Stone 1990, Scott *et al* 1986, Tomich 1986).

The habitats of many of the plants being proposed were degraded in the past by feral cattle, and this has had effects which still persist. Examples of plants whose habitats have been altered by feral cattle include *Hibiscus clayi* and *Munroidendron racemosum.* The Maui population of *Melicope knudsenii,* growing in an area currently used as a domestic cattle pasture, is directly threatened by trampling by this animal (Degener and Degener 1959a, HHP 1991h3, 1991p1; Lamoureux 1982).

Individuals of *Odocoileus hemionus* (mule deer or black-tailed deer), native from western North America to central Mexico, were brought to Kauai from Oregon in the 1960s for game hunting and have not been introduced to any other Hawaiian island. In part, mule deer were introduced to provide another animal for hunting, since the State had planned to reduce the number of goats on Kauai because they were so destructive to the landscape (Kramer 1971). There are about 400 animals in and near Waimea Canyon, with some invasion into Alakai Swamp in drier periods. Mule deer, legally hunted during only one month each year, trample native vegetation and cause erosion by creating trails and removing vegetation (Cuddihy and Stone 1990, DLNR 1985, Tomich 1986). They are a threat to the only population of *Delissea rhytidosperma,* the Mahanaloa Valley population of *Diellia laciniata,* and the Waimea Canyon populations of *Nothocestrum peltatum* (Bruegmann 1990; HPCC 1990b, 1990i3, 1990i4; S. Perlman, pers. comm., 1991).

Axis axis (axis deer), native to Sri Lanka and India, was first introduced to the Hawaiian Islands in 1868 as a game animal on Molokai, later to Oahu and Lanai, and finally to East Maui in 1960. Hunting of axis deer is allowed only on Molokai and Lanai during two months of the year. Considerable damage has been done to the forests on Molokai and Lanai by this animal, especially through browsing of vegetation and compaction of the soil (Cuddihy and Stone 1990, Culliney 1988, DLNR 1985, Scott *et al.* 1986, Tomich 1986). With a population of about 100 animals on the lower southwest slope of Haleakala, the range of the axis deer is expanding on East Maui and constitutes a potential threat to *Melicope knudsenii* (Medeiros et al 1986). On Molokai, axis deer are encroaching on Pelekunu Valley and are already present in Kalaupapa, thus posing a potential threat to populations of *Peucedanum sandwicense* in these areas (HHP 1991u7, 1991u16; J. Lau, pers. comm., 1990).

Gallus gallus (red jungle fowl), ground-nesting chickens native to India and southeast Asia, was introduced to Hawaii by the Polynesian immigrants and became feral in the forests. A current threat to the Makaha Valley, Kauai, population of *Nothocestrum peltatum,* red jungle fowl disturb the ground cover while searching for seeds, fruits, and small invertebrates, thus disrupting seedling establishment (Cuddihy and Stone 1990, HPCC 1990i3, scott *et al* 1986).

One or more species of almost 50 introduced plants directly threaten 21 of the proposed species and potentially threaten the other 2. The original native flora of Hawaii consisted of about 1,000 species, 89 percent of which were endemic. Of the total native and naturalized Hawaiian flora of 1,817 species, 47 percent were introduced from other parts of the world and nearly 100 species have become pests (Smith 1985, Wagner *et al* 1990). Naturalized, introduced species degrade the Hawaiian landscape and compete with native plants for space, light, water, and nutrients (Cuddihy and Stone, 1990; D Lorence, pers. comm., 1991). Some of these species were brought to Hawaii by various groups of people, including the Polynesian immigrants, for food or cultural reasons. Plantation owners, alarmed at the reduction of water resources for their crops caused by the destruction of native forest cover by grazing feral animals, supported the introduction of alien three species for reforestation. Ranchers intentionally introduced pasture grasses and other species for agriculture, and sometimes

inadvertently introduced weed seeds as well. Other plants were brought to Hawaii for their potential horticultural value (Cuddihy and Stone 1990, Scott *et al*, Wenkam 1969

A small tree, *Acacia confusa* (Formosa koa), was introduced to Hawaii for reforestation purposes and is naturalized in dry to mesic, disturbed habitats on most of the Hawaiian Islands (Smith 1985, Wagner *et al* 1990). It threatens the Nounou Mountain population of *Hibiscus clayi* (T. Flynn, pers. comm., 1991). *Acadia mearnsii* (black wattle) was introduced as a cultivated plant and has naturalized on five islands in pastures and dry to mesic forests (Wagner *et al* 1990). It threatens the Kumuweia Ridge population of *Exocarpos luteolus* (T. Flynn, pers. comm., 1991). Two subshrubs in the genus *Ageratina* have naturalized in the Hawaiian Islands and are classified as noxious weeds by the State (Hawaii, Department of Agriculture (DOA) 1981). *Ageratina adenophora* (Maui pamakani), naturalized in dry areas to wet forests on four islands and also classified as a noxious weed by the Federal government (7 CFR part 360), threatens the Molokai population of *Peucedanum sandwicense* (HHP 1991u16, Wagner *et al*. 1990). *Ageratina riparia* (Hamakua pamakani) is naturalized in disturbed, dry to mesic areas and wet forest on four islands and is a threat to the Oahu population of *Lysimachia filifolia* as well as the Molokai and Oahu populations of *Peucedanum sandwicense* (HHP 1991u16; HPCC 1990g2, 1990j1, 1990j3; Wagner *et al* 1990). *Ageratum conyzoides* (maile hohono), an herb which is a common weed in many areas of the main Hawaiian Islands, threatens *Brighamia insignis* in some areas along the Kalalau Trail (HHP 1991a1, Wagner *et al*. 1990).

Although it is the official state tree of Hawaii, *Aleurites moluccana* (kukui) is not a native Hawaiian plant but was originally native to Malesia. It was brought to Hawaii by the Polynesian immigrants and is now a component of mesic valley ecosystems on all of the main islands except Kahoolawe (Wagner *et al*. 1990). One or more populations of *Hibiscus clayi*, *Lipochaeta fauriei*, *Munroidendron racemosum*, and *Pteralyxia kauaiensis* grow in areas with kukui, which competes with these native species for space *Hibiscus clayi* and *Lipochaeta fauriei* do not grow under a dense canopy, so kukui could prevent them from remaining in an area. *Munroidendron racemosum* and *Pteralyxia kauaiensis* overstory trees in native forests, are displaced when kukui is an element of their habitat (HHP 1991h2, 1991s1, 1991s4, 199s5, 1991s8, 1991s10, 1991s15, 1991w1, 1991w4, 1991w5; HPCC 1990d3; Lamoureux 1982; T. Flynn, J Lau, and S. Perlman, pers. comms., 1991). *Araucaria columnaris* (columnar araucaria), planted in Hawaii for reforestation and timber production and now found on all the main islands, is reseeding and threatens the Nounou Mountain population of *Hibiscus clayi* (Little and Skolman 1989; Neal 1965; D Bates, pers comm., 1991). *Bidens pilosa* (Spanish needle), an annual herb naturalized on all the main Hawaiian Islands, is a threat to *Peucedanum sandwicense* along some sections of the Kalalau Trail (Ganders and Nagata 1990, HHP 1991u15)

Classified as a noxious weed by the State of Hawaii, *Clidemia hirta* (Koster's curse) is an aggressive shrub found in mesic to wet forests on at least five islands in Hawaii (Almeda 1990, DOA 1981). It is a threat to *Melicope pallida* on Oahu and a Na Pali coast population of *Peucedanum sandwicense* It is a potential threat to the Wahiawa Bog population of *Cyrtandra limahuliensis* (HHP 1990c; T Flynn and S. Montgomery, pers. comms., 1991) *Cordyline fruticosa* (ti) is a shrub which was brought to Hawaii by the Polynesian immigrants. Its original range is unknown, but in Hawaii it is now naturalized on all the main islands except Kahoolawe in hala forest and mesic valleys and forests, sometimes forming dense stands (Wagner *et al* 1990; J Lau, pers. comm., 1991). One or more populations of the following taxa compete for space with ti. *Delissea rhytidosperma*, *Hibiscus clayi*, *Lipochaeta micrantha* var. *exigua*, *Lysimachia filifolia*, *Munroidendron racemosum* and *Pteralyxia kauaiensis* (HHP 1991d2, 1991h1, 1991h2, 1991j1, 1991s1 1991w7, HPCC 1990c, 1990e, 1990g2; J Lau, T Flynn, and S. Perlman, pers. comms., 1991). *Corynocarpus laevigatus* (karakanut), a tree introduced to Hawaii for reforestation, is now found on four islands and is a threat to the Kumuweia Ridge population of *Exocarpos luteolus* (Wagner *et al*. 1990; T Flynn, pers. comm., 1991).

Brought to Hawaii as a cultivated herbaceous plant, *Erigeron karvinskianus* (daisy fleabane) is naturalized in wetter areas of four islands (Wagner *et al* 1990). An invasion of daisy fleabane threatens *Lipochaeta micrantha* var *micrantha* in Koaie Canyon, the Kalalau rim populations of *Melicope pallida* and *Nothocestrum peltatum* and a Na Pali coast population of *Peucedanum sandwicense* (HHP 1991k1 HPCC 1990f, 1990i4, 1990j2; T. Flynn and K Wood, pers. comms., 1991) *Furcraea foetida* (Mauritius hemp), a large rosette plant naturalized on most islands in Hawaii on rocky ledges, slopes, and in pastures threatens the only known population of *Schiedea spergulina* var *leiopoda* (Wagner *et al* 1990; T Flynn, pers. comm., 1991) *Grevillea banksii* (kahili flower), considered a noxious weed by the State of Hawaii, was introduced as a cultivated tree and has naturalized in disturbed, dry to wet forests on most of the main Hawaiian Islands (DOA 1981 Wagner *et al* 1990) It threatens the Waipa Valley population of *Cyrtandra limahuliensis*· T Flynn, pers comm., 1991). *Grevillea robusta* (silk tree) was extensively planted in Hawaii for timber and is now naturalized on most of the main islands (Smith 1985, Wagner *et al* 1990). Silk tree threatens the only known population of *Lipochaeta waimeaensis* and the Oahu population of *Peucedanum sandwicense* (HPCC 1990j1; S. Perlman, pers. comm., 1991).

Three species of *Hedychium* (ginger) native to the Himalayas and surrounding areas, were brought to Hawaii as ornamentals and are now naturalized in mesic or wet forests. Their rhizomes produce rapid, vegetative growth, forming dense ground cover that excludes other plants The Wainiha population of *Cyrtandra limahuliensis* is threatened by *H flavescens* (yellow ginger) (T Flynn and K. Wood, pers. comms., 1991). *Hedychium gardnerianum* (kahili ginger) produces red seeds which are distributed by alien fruit-eating birds; it threatens the Kumuweia Ridge population of *Solanum sandwicense* (Cuddihy and Stone 1990; HPPC 1990m, Nagata 1990; Smith 1985; T Flynn and K Wood, pers. comms., 1991). *Kalanchoe pinnata* (air plant) is an herb which occurs on all the main islands except Niihau and Kahoolawe, especially in dry to mesic areas (Wagner *et al* 1990) Populations of *Brighamia insignis* and *Peucedanum sandwicense* along the Kalalau Trail are threatened by competition with air plant (HHP 1991u15, Takeuchi 1982).

Lantana camara (lantana), brought to Hawaii as an ornamental plant, is an aggressive, thicket-forming shrub which can now be found on all of the main islands in mesic forests, dry shrublands and other dry, disturbed habitats (Wagner *et al* 1990). One or more populations of each of the following species are threatened by lantana *Brighamia insignis*, *Delissea rhytidosperma*, *Diellia laciniata*,

Hibiscus clayi, *Lipochaeta fauriei*, both subspecies of *Lipochaeta micrantha*, *Melicope haupuensis*, *Melicope knudsenii*, *Munroidendron racemosum*, *Nothocestrum peltatum*, *Peucedanum sandwicense*, *Pteralyxia kauaiensis*, and both varieties of *Schiedea spergulina* (HHP 1991a1 to 1991a3, 1991e3, 1991i1, 1991j1, 1991k1, 1991o1, 1991p2 to 1991p4, 1991s1, 1991s5, 1991s11, 1991s15, 1991t7, 1991u1, 1991u3, 1991u5, 1991w4, 1991w7, 1991y5; HPCC 1990a, 1990d1, 1990d2, 1990e, 1990f, 1990k1, 1990k2; T. Flynn, R. Hobdy, D Lorence, and S. Perlman, pers. comms., 1991). *Leptospermum scoparium* (tea tree), brought to Hawaii as an ornamental plant and now naturalized in disturbed mesic to wet forest on three islands, threatens the Waipa population of *Cyrtandra limahuliensis* (Wagner *et al* 1990; T. Flynn, pers. comm., 1991).

Leucaena leucocephala (koa haole), a shrub naturalized and sometimes the dominant species in low elevation, dry, disturbed areas on all of the main Hawaiian Islands, threatens the following plants. The only population of *Lipochaeta waimeaensis*, the Haupu Range population of *Munroidendron racemosum*, and the single extant population of *Schiedea spergulina* var. *leiopoda* (Geesnick *et al* 1990; HHP 1991s3; Lamoureux 1982; T. Flynn and S. Perlman, pers. comms., 1991). *Lonicera japonica* (Japanese honeysuckle) is becoming naturalized in mesic to wet areas on Kauai and Hawaii and threatens the Kokee population of *Solanum sandwicense* (Bruegmann 1990, HPCC 1990m, Wagner *et al* 1990). *Melia azedarach* (Chinaberry), a small tree widely cultivated and naturalized on most of the main Hawaiian Islands, threatens Koaie Canyon populations of *Diellia laciniata*, *Munroidendron racemosum*, and *Schiedea spergulina* var. *spergulina* (HHP 1991e3, 1991y5; HPCC 1990h, Wagner *et al* 1990). The aggressive *Myrica faya* (firetree) has become a dominant plant in many mesic to wet forests on five Hawaiian Islands and is in the process of being added to Hawaii's noxious weed list This tree's ability to fix nitrogen allows it to produce lush growth in spite of the nutritionally poor Hawaiian volcanic soils. It thus outcompetes native species as well as enriching the soil so that other alien plants can invade (DOA 1991, Wagner *et al* 1990). Populations of *Exocarpos luteolus* in Kokee State Park, *Munroidendron racemosum* in Koaie Valley, and *Peucedanum sandwicense* in Waiahuakua Valley are threatened by firetree (HHP 1991u3; HPCC 1990h, S. Perlman, pers. comm., 1991). *Opuntia ficus indica* (prickly pear, panini) is a cactus found in dry, disturbed habitats on five islands which poses a threat to the only known population of *Lipochaeta waimeaensis* (Solomon 1990; S. Perlman, pers. comm., 1991).

Passiflora edulis (passion fruit) is a woody vine which occurs on five Hawaiian Islands in mesic forests and shrublands and threatens the Makaha Valley population of *Nothocestrum peltatum* (Escobar 1990, HPCC 1990i3). *Passiflora ligularis* (sweet granadilla) is a woody vine which now occurs in diverse mesic forest and wet forest on four islands and threatens the only known population of *Delissea rhytidosperma* (Escobar 1990; S. Perlman, pers. comm., 1991). *Passiflora mollissima* (banana poka), another woody vine, poses a serious problem to mesic forests on Kauai and Hawaii by covering trees, reducing the amount of light which reaches trees as well as understory, and causing damage and death to trees by the weight of the vines. Animals, especially feral pigs, eat the fruit and distribute the seeds (Cuddihy and Stone 1990, Escobar 1990). Banana poka is in the process of being added to Hawaii's list of noxious weeds (DOA 1991) and threatens the only known population of *Delissea rhytidosperma*, the Makaha Valley population of *Nothocestrum peltatum*, the Nualolo Valley population of *Peucedanum sandwicense*, some individuals of *Pteralyxia kauaiensis*, and *the Kokee State Park populations of Solanum sandwicense* (HHP 1991d1, 1991u5, HPCC 1990i3, 1990m, D Herbst, R. Hobdy, and J Lau, pers. comms., 1991). *Pluchea carolinensis* (sourbush), a shrub naturalized in dry, coastal areas and mesic and wet forest on all of the main Hawaiian Islands, threatens the Oahu population of *Lysimachia filifolia* and the Maui population of *Peucedanum sandwicense* (HPCC 1990g2; Wagner *et al* 1990; R. Hobdy, pers. comm., 1991).

Two shrubs or small trees, *Psidium cattleianum* (strawberry guava) and *Psidium guajava* (common guava) were brought to Hawaii and have become widely naturalized on all the main islands, forming dense stands in disturbed areas. Strawberry guava, found in mesic and wet forests, develops into stands in which few other plants grow, physically displacing natural vegetation and greatly affecting Hawaiian plants, many of which are narrowly endemic taxa. Pigs depend on strawberry guava for food and in turn disperse the plant's seeds through the forests (Smith 1985, Wagner *et al*. 1990). Strawberry guava is considered to be the greatest weed problem in Hawaiian rain forests and is known to pose a direct threat to *Brighamia insignis* near the Kalalau Trail, over half the populations of *Cyrtandra limahuliensis*, the Nounou Mountain population of *Hibiscus clayi*, the Haeleele Valley population of *Lipochaeta fauriei*, and the Haupu Range population of *Lipochaeta micrantha* var. *exigua* (HHP 1991a1; HPCC 1990c, 1990e; Smith 1985, T. Flynn, pers. comm., 1991). Common guava invades disturbed sites, forming dense thickets in dry as well as mesic and wet forests (Smith 1985, Wagner *et al*. 1990). Common guava threatens the Kalalau populations of *Brighamia insignis*, the Anahola Stream population of *Cyrtandra limahuliensis*, the Nounou Mountain and Halii Stream population of *Hibiscus clayi*, the Haeleele Valley population of *Lipochaeta fauriei*, the Hanakapiai Valley population of *Melicope pallida*, several populations of *Munroidendron racemosum*, some Kauai and Molokai populations of *Peucedanum sandwicense*, and the Limahuli Valley population of *Pteralyxia kauaiensis* (Lamoureux 1982; HHP 1991a1, 1991a4, 1991s1, 1991s4, 1991s5, 1991u3, 1991u16; HPCC 1990d1, 1990h, T. Flynn, R. Hobdy, and J Lau, pers. comms., 1991).

Pterolepis glomerata, an herb or subshrub locally naturalized in mesic to wet disturbed sites on Kauai, Oahu, and Hawaii, threatens the Wahiawa Bog population of *Cyrtandra limahuliensis* (Almeda 1990; T. Flynn, pers. comm., 1991). *Rubus argutus* (prickly Florida blackberry), an aggressive alien species in disturbed mesic to wet forests and subalpine grasslands on four islands, is considered a noxious weed by the State of Hawaii (DOA 1981, Smith 1985, Wagner *et al* 1990). Prickly Florida blackberry threatens two populations of *Exocarpos luteolus* in and near Kokee State Park, the Kalalau rim population of *Melicope pallida*, the only known population of *Melicope quadrangularis* the Kalalau rim and Makaha Valley populations of *Nothocestrum peltatum* and several Na Pali coast populations of *Solanum sandwicense* (HHP 1991z18, 1991z25; HPCC 1990i3, 1990i4,1990m, T. Flynn, D Herbst, R. Hobdy, J Lau, S. Perlman, and K Wood, pers. comms., 1991). *Schefflera actinophylla* (octopus tree), brought to Hawaii as a cultivated tree, is shade tolerant and becomes established in undisturbed forests (Lowrey 1990, Smith 1985). It is now naturalized on at least four islands and is a threat to the Oahu population of *Lysimachia filifolia* as well as a potential threat to one of the Kalalau populations of *Peucedanum sandwicense* (HHP 1990c, HPCC 1990g2).

After escaping from cultivation, *Schinus terebinthifolius* (Christmas berry) became naturalized on most of the main Hawaiian Islands (Wagner *et al.* 1990). It threatens the Nounou Mountain population of *Hibiscus clayi* and the Oahu populations of *Peucedanum sandwicense*. It is a potential threat to a population of *Peucedanum sandwicense* near the Kalalau Trail (HHP 1990c, 1991h1; HPCC 1990j1, 1990j3; T. Flynn, pers. comm., 1991). Four species of the genus *Stachytarpheta* have naturalized in the Hawaiian Islands, usually in distributed areas (Wagner *et al.* 1990). These alien herbs or subshrubs threaten the Kalalau Trail populations of *Brighamia insignis* and individuals of *Peucedanum sandwicense* on Oahu (HHP 1991a1, HPCC 1990j1). *Syzygium cumini* (Java plum), a tree naturalized in mesic valleys to distributed mesic forests on most of the main Hawaiian Islands, threatens the Kalalau Trail and Haupu Range populations of *Brighamia insignis*, the Nounou Mountain and Moloaa Valley populations of *Hibiscus clayi*, the only known population of *Melicope quandrangularis*, and two Na Pali Coast State Park populations of *Peucedanum sandwicense* (HHP 1991a1, 1991a2, 1991h1, 1991h2, 1991u1, 1991u3; HPCC 1990a; Wagner *et al.* 1990; K. Wood, pers. comm., 1991). *Triumfetta semitriloba* (Sacramento bur) is a subshrub now found on four Hawaiian Islands and considered to be a noxious weed by the State of Hawaii (DOA 1981, Wagner *et al.* 1990). Populations of *Munroidendron racemosum* and *Schiedea spergulina* var. *spergulina* near Koaie Canyon are threatened by Sacramento bur (HHP 1991y5, HPCC 1990h). *Toona ciliata* (Australian red cedar), a tree now naturalized on four Hawaiian Islands, is quickly spreading in forests of the Waianae Mountains on Oahu and threatens *Melicope pallida* there (Wagner *et al.* 1990; S. Montgomery, pers. comm., 1991).

Several hundred species of grasses have been introduced to the Hawaiian Islands, many for animal forage. Of the approximately 100 grass species which have become naturalized, 9 species threaten 10 of the 23 proposed plants. *Melinis minutiflora* (molasses grass), a perennial grass brought to Hawaii for cattle fodder, is now naturalized in dry to mesic, disturbed areas on most of the main Hawaiian Islands. The mats it forms smother out other plants and fuel more intense fires than would normally affect an area (Cuddihy and Stone 1990, O'Connor 1990, Smith 1985). Plants threatened by molasses grass are the Kalalau Trail populations of *Brighamia insignis*; the Hikimoe Valley population of *Lipochaeta fauriei*; and the Waiahuakua Valley and Kalaupapa, Molokai, populations of *Peucedanum sandwicense* (HHP 1991a1, 1991a3, 1991u3; HPCC 1990a; R. Hobdy and S. Perlman, pers. comm., 1991). *Oplismenus hirtellus* (basketgrass) is a perennial grass which is naturalized in shaded mesic valleys and forests and sometimes in wet forests on most of the main Hawaiian Islands (O'Connor 1990). The population of *Diellia laciniata* located in Paaiki and Mahanaloa Valleys, the Nounou Mountain population of *Hibiscus clayi*, and a Koaie Canyon population of *Lipochaeta fauriei* are threatened by basketgrass (HHP 1991h1; HPCC 1990c, 1990d3; W.H. Wagner, pers comm., 1991). The perennial grass *Paspalum conjugatum* (Hilo grass), naturalized in moist to wet, disturbed areas on most Hawaiian Islands, produces a dense ground cover, even on poor soil, and threatens the Mount Kahili population of *Cyrtandra limahuliensis* and the Halii Stream population of *Hibiscus clayi* (Cuddihy and Stone 1990, O'Connor 1990, Smith 1985; T. Flynn and R. Hobdy, pers. comms. 1991).

Pennisetum clandestinum (Kikuyu grass), an aggressive, perennial grass introduced to Hawaii as a pasture grass, withstands trampling and grazing and has naturalized on four Hawaiian Islands in dry to mesic forest. It produces thick mats which choke out other plants and prevent their seedlings from establishing and has been declared a noxious weed by the U.S. Department of Agriculture (7 CFR part 360) (Medeiros *et al.* 1986, O'Connor 1990, Smith 1985). Kikuyu grass threatens the Maui population of *Melicope knudsenii* (R. Hobdy, pers. comm., 1991). *Rhynchelytrum repens* (Natal redtop) is an annual or perennial grass which is naturalized in disturbed, usually dry areas on all the main Hawaiian Islands and threatens the only population of *Lipochaeta waimeaensis* (O'Connor 1990; Perlman, pers. comm., 1991). Sacciolepis indica (Glenwood grass), an annual or perennial grass naturalized on five islands in Hawaii in open, wet areas, threatens the Mount Kahili population of *Cyrtandra limahuliensis* (O'Connor 1990; T. Flynn, pers. comm., 1991). *Setaria gracilis* (yellow foxtail), a perennial grass naturalized in wet to dry, disturbed habitat on most of the main Hawaiian Islands, threatens the Kalalau populations of *Brighamia insignis*, one of the two known trees of *Melicope haupuensis*, and the Waiahuakua Valley population of *Peucedanum sandwicense* (HHP 1991a1, 1991a3, 1991o1, 1991u3; O'Connor 1990). A perennial grass naturalized in disturbed areas on most of the main Hawaiian Islands, *Sporobolus africanus* (smutgrass) threatens the Kalalau Trail populations of *Brighamia insignis* and *Peucedanum sandwicense* (HHP 1991a1, 1991a3, 1991u15; O'Connor 1990). *Stenotaphrum secundatum* (St. Augustine grass), a creeping perennial grass naturalized on beaches and dunes and along roads on five of the main Hawaiian Islands, threatens *Diellia laciniata* below the rim of Waimea Canyon (O'Connor 1990; D. Lorence, pers. comm., 1991).

Because Hawaiian plants were subjected to fire during their evolution only in areas of volcanic activity and from occasional lightning strikes, they are not adapted to recurring fire regimes and are unable to recover well following a fire. Alien plants are often better adapted to fire than native plant species, and some fire-adapted grasses have become widespread in Hawaii. The presence of such species in Hawaiian ecosystems greatly increases the intensity, extent, and frequency of fire. Fire-adapted alien species can reestablish in a burned area, resulting in a reduction in the amount of native vegetation after each fire. Fire is a serious, immediate threat along the Na Pali coast, especially during drier months. Fires are caused by people pursing recreational activities, and prevailing winds spread fires to inland areas. Along the way, fire could destroy dormant seeds as well as plants, even on steep cliffs (Clarke and Cuddihy 1980, Corn *et al.* 1979, Cuddihy and Stone 1990). Fire is a threat to Na Pali coast populations of *Brighamia insignis*, *Exocarpos luteolus*, *Melicope pallida*, *Munroidendron racemosum*, *Nothocestrum peltatum*, *Peucedanum sandwicense*, *Pteralyxia kauaiensis*, and *Solanum sandwicense*. In addition, *Lipochaeta fauriei* is threatened by fire because it occurs with molasses grass, a fire-adapted alien plant. The only population of *Delissea rhytidosperma* is also considered to be threatened by fire. The Maui population of *Melicope knudsenii* is potentially threatened by fire, since it grows in a pasture area covered by a thick mat of Kikuyu grass (Bruegmann 1990; Cuddihy and Stone 1990; HHP 1991a1, 1991a3, 1991f3, 1991f6, 1991q6, 1991s2, 1991s5 to 1991s8, 1991s10, 1991s14, 1991s15, 1991t1, 1991t2, 1991u1, 1991u5, 1991u6, 1991u15, 1991u17, 1991w2, 1991w4, 1991z11, 1991z12, 1991z18, 1991z25; HPCC 1990i4; Medeiros *et al.* 1986; St. John 1981b; R. Hobdy, pers. comm., 1991).

Substrate loss due to agriculture, grazing animals (especially goats), hikers, and vegetation change results in habitat degradation and loss. This particularly affects plant populations located on cliffs or steep slopes, including: The only known population of *Lipochaeta waimeaensis*, most populations of *Brighamia insignis*, all populations of *Diellia laciniata*, the largest known population of *Exocarpos luteolus*, Oahu populations of *Peucedanum sandwicense*, and the Waimea Canyon rim population of *Phyllostegia waimeae* Bruegmann 1990; Christensen 1979; HHP 1991f6; Takeuchi 1982; G. Carr, R. Hobdy, and J. Obata, pers. comms., 1991).

Illicit cultivation of *Cannabis sativa* (marijuana) occurs in isolated portions of public and private lands in the Hawaiian Islands. This agricultural practice opens areas in native forest into which alien plants invade after the patches are abandoned (HHP 1990c). Marijuana cultivation is considered a management problem in Hono O Na Pali and Kuia NARs and is a potential threat to the following taxa which have populations in those areas: *Brighamia insignis*, *Delissea rhytidosperma*, *Munroidendron racemosum*, *Peucedanum sandwicense*, *Pteralyxia kauaiensis*, and *Solanum sandwicense* (HHP 1991a1, 1991d1, 1991s5, 1991s6, 1991u6, 1991w1, 1991z25; HHP and DOFAW, 1989).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Unrestricted collecting for scientific or horticultural purposes and excessive visits by individuals interested in seeing rare plants could result from increased publicity. This is a potential threat to all of the proposed species, but especially to *Delissea rhytidosperma*, *Lipochaeta waimeaensis*, *Melicope haupuensis*, *M. quadrangularis*, and *Phyllostegia waimeae*, each of which has only 1 or 2 populations and a total of 10 or fewer individuals. Any collection of whole plants or reproductive parts of any of these five species would cause an adverse impact on the gene pool and threaten the survival of the species. Some taxa, such as *Brighamia insignis*, *Exocarpos luteolus*, *Hibiscus clayi*, *Nothocestrum peltatum*, *Peucedanum sandwicense*, and *Solanum sandwicense*, have populations close to trails or roads and are thus easily accessible to collectors (HHP 1991a3, 1991f6, 1991h1, 1991t1, 1991t2, 1991t4, 1991t7, 1991u1, 1991u3, 1991u5, 1991u7, 1991u15, 1991z11, 1991z12, 1991z18, 1991z20, 1991z23, 1991z25, 1991z26; HPCC 1990, 1990i1 to 1990i4, 1990m).

Many of the proposed plants occur in recreational areas used for hiking, camping, and hunting. Tourism is a growing industry in Hawaii, and as more people seek recreational activities, they are more likely to come into contact with rare native plants. People can transport or introduce alien plants through seeds on their footwear, and they can cause erosion, trample plants, and start fires (Corn *et al.* 1979). *Brighamia insignis*, *Hibiscus clayi*, and *Peucedanum sandwicense* have populations next to trails and are considered to be immediately threatened by recreational use of the areas in which they occur (Clark and Cuddihy 1980; Takeuchi 1982; T. Flynn, pers. comm., 1991).

C. Disease or Predation

Browsing damage by goats has been verified for the following proposed taxa: *Brighamia insignis*, *Exocarpos luteolus*, *Peucedanum sandwicense*, and *Schiedea spergulina* var. *spergulina* (HHP 1991y5; Takeuchi 1982; T. Flynn, J. Lau, and S. Perlman, pers. comms., 1991). The remaining proposed species are not known to be unpalatable to goats, deer, or cattle, and therefore predation is a probable threat where those animals have been reported, potentially affecting 15 additional proposed species: *Delissea rhytidosperma*, *Diellia laciniata*, *Hedyotis cookiana*, *Hibiscus clayi*, *Lipochaeta fauriei*, *Lipochaeta micrantha*, *Lipochaeta waimeaensis*, *Melicope haupuensis*, *Melicope knudsenii*, *Melicope pallida*, *Munroidendron racemosum*, *Nothocestrum peltatum*, *Phyllostegia waimeae*, *Pteralyxia kauaiensis*, and *Solanum sandwicense*. The lack of seedlings of many of the taxa and the occurrence of individuals of several taxa only on inaccessible cliffs seem to indicate the effect that browsing mammals, especially goats, have had in restricting the distribution of these plants (HHP 1990b, Takeuchi 1982).

Of the four species of rodents which have been introduced to the Hawaiian Islands, the species with the greatest impact on the native flora and fauna is probably *Rattus rattus* (black or roof rat), which now occurs on all the main Hawaiian Islands around human habitations, in cultivated fields, and in dry to wet forests. Black rats, and to a lesser extent *Mus musculus* (house mouse), *Rattus exulans* (Polynesian rat), and *R. norvegicus* (Norway rat) eat the fruits of some native plants, especially those with large, fleshy fruits. Many native Hawaiian plants produce their fruit over an extended period of time, and this produces a prolonged food supply which supports rodent populations. Black rats strip bark from some native plants (Cuddihy and Stone 1990, Tomich 1986). Rats threaten *Delissea rhytidosperma* by damaging the fruits and stems of the species' only population (Bruegmann 1990). Rats eat fruits of *Excarpos luteolus*, threatening the regeneration of this species as well. It is probable that rats damage the fruit of *Munroidendron racemosum* and *Pteralyxia kauaiensis*, both of which have fleshy fruits and have populations in areas where rats occur (Lamoureux 1982; T. Flynn and D. Herbst, pers. comms., 1991).

Xylosandrus compactus (black twig borer) is a small beetle about 1.6 mm (0.06 in) in length which burrows into branches, introduces a pathogenic fungus as food for its larvae, and lays its eggs. Twigs, branches, and even the entire plant can be killed from such an infestation. In the Hawaiian Islands, black twig borer has many hosts, disperses easily, and is probably present at most elevations up to 2,500 ft (670 m). Because it is known to attack species of *Melicope*, it is a potential threat to *Melicope haupuensis*, *M. knudsenii*, and *M. pallida*, all of which grow in areas where the insect is believed to be present (Davis 1970; Hara and Beardsley 1979; Hill 1987; Medeiros *et al.* 1986; Samuelson 1981; S. Montgomery, pers. comm., 1991).

D. The Inadequacy of Existing Regulatory Mechanisms

Hawaii's Endangered Species Act states, "Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the [Federal] Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *" (HRS, sect. 195D–4(a)). Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking of endangered plants in the State and encourages conservation by State agencies (HRS, sect. 195D–4).

None of the 23 proposed species are listed by the State. Twelve species have populations located on privately-owned land. Two taxa, *Melicope quadrangularis* and *Schiedea spergulina* var. *leiopoda*, are found exclusively on private land. *Peucedanum sandwicense* is found on City and County of Honolulu land and Federally-managed land as well as State land. At least one population of each species except *Melicope quadrangularis* occurs on State land. Eleven of the proposed species are located in State parks, NARs, or the seabird sanctuary, which

have rules and regulations for the protection of resources (DLNR 1981b; HRS, sects. 183D–4, 184–5, 195–5, and 195–8). However, the regulations are difficult to enforce because of limited personnel. One or more population of each of the 23 proposed species is located on land classified within conservation districts and owned by the City and County of Honolulu, the State of Hawaii, or private companies or individuals. Regardless of the owner, lands in these conservation districts, among other purposes, are regarded as necessary for the protection of endemic biological resources and the maintenance or enhancement of the conservation of natural resources. Activities permitted in conservation districts are chosen by considering how best to make multiple use of the land (HRS, sect. 205–2). Some uses, such as maintaining animals for hunting, are based on policy decisions, while others, such as preservation of endangered species, are mandated by both Federal and State laws.

Requests for amendments to district boundaries or variances within existing classifications can be made by government agencies and private landowners (HRS, sect. 205–4). Before decisions about these requests are made, the impact of the proposed reclassification on "preservation or maintenance of important natural systems or habitat" (HRS, sects. 205–4, 205–17) as well as the maintenance of natural resources is required to be taken into account (HRS, sects. 205–2, 205–4). For any proposed land use change which will occur on county or State land, that will be funded in part or whole by county or State funds, or will occur within land classified as conservation district, an environmental assessment is required to determine whether or not the environment will be significantly affected (HRS, chapt. 343). If it is found that an action will have a significant effect, preparation of a full Environmental Impact Statement is required. Hawaii environmental policy, and thus approval of land use, is required by law to safeguard "* * * the State's unique natural environmental characteristics * * *" (HRS, sect. 344–3(1)) and includes guidelines to "Protect endangered species of individual plants and animals * * *" (HRS, sect. 344–4(3)(A)). Federal listing, because it automatically invokes State listing, would also trigger these other State regulations protecting the plants.

State laws relating to the conservation of biological resources allow for the acquisition of land as well as the development and implementation of programs concerning the conservation of biological resources (HRS, sect. 195D–5(a)). The State also may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, sect. 195D–5(c)). If listing were to occur, funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). The DLNR is mandated to initiate changes in conservation district boundaries to include "the habitat of rare native species of flora and fauna within the conservation district" (HRS, sect. 195D–5.1).

Twelve of the proposed species are threatened by six plants considered by the State of Hawaii to be noxious weeds and two others proposed to be added to the list. The State has provisions and funding available for eradication and control of noxious weeds on State and private land in conservation districts and other areas (HRS, chapt. 152; DOA 1981, 1991). State and Federal agencies have programs to locate, eradicate, and deter marijuana cultivation, which is a potential threat to six proposed taxa (HHP 1990c). Despite the existence of various State laws and regulations which give protection to Hawaii's native plants, their enforcement is difficult due to limited funding and personnel. Listing of these 23 plant species would reinforce and supplement the protection available under the State Act and other laws. The Federal Act would offer additional protection to these 23 species because, if they were to be listed as endangered, it would be a violation of the Act for any person to remove, cut, dig up, damage, or destroy any such plant in an area not under Federal jurisdiction in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The small numbers of populations and individuals of most of these species increase the potential for extinction from stochastic events. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals or the only known extant population. Five of the proposed species, *Cyanea asarifolia, Delissea rhytidosperma, Hedyotis cookiana, Lipochaeta waimeaensis* and *Melicope quadrangularis*, are known from a single population. Eleven other proposed species are known from only two to five populations (see Table 1). Seventeen of the proposed species are estimated to number no more than 100 known individuals (see Table 1). Five of these species, *Delissea rhytidosperma, Lipochaeta waimeaensis, Melicope haupuensis, Melicope quadrangularis* and *Phyllostegia waimeae*, number no more than 10 individuals.

Erosion, landslides, and rock slides due to natural weathering result in the death of individual plants as well as habitat destruction. This especially affects the continued existence of taxa or populations with limited numbers and/or narrow ranges, such as the Wailua populations of *Cyanea asarifolia* and *Cyrtandra limahuliensis*, the Kauai and Oahu populations of *Lysimachia filifolia*, and the only population of *Schiedea spergulina* var. *leiopoda* (CPC 1990; HHP 1991b2; HPCC 1990g1, 1990g2; T. Flynn and W.L. Wagner, pers. comms., 1991). This process is often exacerbated by human disturbance and land use practices (see Factor A).

In November 1982, Typhoon Iwa struck the Hawaiian Islands and caused extensive damage, especially on the island of Kauai. Many forest trees were destroyed, opening the canopy and thus allowing the invasion of light-loving alien plants, which are a threat to the continued existence of many of the proposed species. For example, because Honopu Trail was extensively damaged by this typhoon, a population of *Solanum sandwicense*, last visited in 1969, may no longer be in existence (R. Hobdy, pers. comm., 1991). Damage by typhoons could further decrease the already reduced habitat of most of the 23 proposed species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list these 23 plant species as endangered. Twenty of the species proposed for listing either number no more than about 100 individuals or are known from 5 or fewer populations. The 23 species are threatened by 1 or more of the following: Habitat degradation and/or predation by feral goats, feral cattle, feral pigs, rats, and deer; competition from alien plants; substrate loss; human impacts; and lack of legal protection or difficulty in enforcing laws which are already in effect. Small population size and limited distribution make these species particularly vulnerable to extinction and/or reduced reproductive vigor from stochastic events. Because these 23 species are in danger of extinction

throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act.

Critical habitat is not being proposed for the 23 species included in this rule, for reasons discussed in the "Critical Habitat" section of this proposal.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these species. Such a determination would result in no known benefit to the species. As discussed under Factor B in the "Summary of Factors Affecting the Species," the species face numerous anthropogenic threats. The publication of precise maps and descriptions of critical habitat in the **Federal Register** and local newspapers as required in a proposal for critical habitat would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline and increase enforcement problems. The listing of these species as endangered publicizes the rarity of the plants and, thus, can make these plants attractive to researches, curiosity seekers, or collectors of rare plants. All involved parties and the major landowners have been notified of the general location and importance of protecting the habitat of these species. Protection of the habitat of the species will be addressed through the recovery process, and, in some cases, through the section 7 consultation process. There is only one Federal activity within the currently known habitats of these plants. One taxon is located on land owned by the State Department of Hawaiian Home Lands which is currently under a cooperative management agreement with the National Park Service in Kalaupapa National Historical Park on the island of Molokai. As protection of the taxon is now under the jurisdiction of the National Park Service, Federal laws protect all plants in the park from damage or removal.

Therefore, the Service finds that designation of critical habitat for these species is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities and because it is unlikely to aid in the conservation of these species.

Available Conservation Measures

Conservation measures provided to species listed as Endangered under the endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. One population of *Peucedanum sandwicense* is located in Kalaupapa National Historical Park. Laws relating to national parks prohibit damage or removal of any plants growing in the parks. There are no other known Federal activities that occur within the present known habitat of these 23 plant species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plants set forth a series of general prohibitions and exceptions that apply to all endangered plant species. With respect to the 23 plant species proposed to be listed as endangered, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 would apply. These prohibitions, in part, make it illegal with respect to any endangered plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species are not common in cultivation not in the wild.

Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203–3507 (703/358–2104 or FTS 921–2104; FAX 703/358–2281).

Public Comments Solicited

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

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

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

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

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

The final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a

final regulation that differs from this proposal.

The Endangered Species Act provides for at least one public hearing on this proposal, if requested. Hearing requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (see ADDRESSES section).

National Environmental Policy Act

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

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Office (see **ADDRESSES** above).

Author

The authors of this proposed rule are Z.E. Ellshoff, Joan M. Yoshioka, Joan E. Canfield, and Derral R. Herbst, Fish and Wildlife Enhancement, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541–2749 or FTS 551–2749). Substantial data were generously contributed by Tim Flynn, National Tropical Botanical Garden; Joel Lau, Hawaii Heritage Program; and Steve Perlman, Hawaii Plant Conservation Center.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amended part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: 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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Apiaceae—Parsley family:						
*	*	*	*	*	*	
Peucedanum sandwicense	Makou	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Apocynaceae—Dogbane family:						
*	*	*	*	*	*	
Pteralyxia kauaiensis	Kaulu	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Araliaceae—Ginseng family:						
*	*	*	*	*	*	
Munroidendron racemosum	None	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Aspleniaceae—Spleenwort family:						
*	*	*	*	*	*	
Diellia laciniata	None	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Asteraceae—Aster family:						
*	*	*	*	*	*	
Lipochaeta fauriei	Nehe	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Lipochaeta micrantha	Nehe	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Lipochaeta waimeaensis	Nehe	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Campanulaceae—Bellflower family:						
*	*	*	*	*	*	
Brighamia insignis	'Olulu	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Cyanea asarifolia	Haha	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Delissea rhytidosperma	None	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Caryophyllaceae—Pink family:						
*	*	*	*	*	*	
Schiedea spergulina	None	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Gesneriaceae—African Violent family:						
*	*	*	*	*	*	
Cyrtandra limahuliensis	Ha'iwale	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	
Lamiaceae—Mint family:						
*	*	*	*	*	*	
Phyllostegia waimeae	None	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Malvaceae—Mallow family:						
* * *	* * *	* * *	*	*	*	
Hibiscus clayi	Glay's hibiscus	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Primulaceae—Primrose family:						
* * *	* * *	* * *	*	*	*	
Lysimachia filifolia	None	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Rubiaceae—Coffee family:						
* * *	* * *	* * *	*	*	*	
Hedyotis cookiana	'Awiwi	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Rutaceae—Citrus family:						
* * *	* * *	* * *	*	*	*	
Melicope haupuensis	Alani	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
* * *	* * *	* * *	*	*	*	
Melicope knudsenii	Alani	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Melicope pallida	Alani	U.S.A. (HI)	E		NA	NA
Melicope quadrangularis	Alani	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Santalaceae—Sandalwood family:						
* * *	* * *	* * *	*	*	*	
Exocarpos luteolus	Heau	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Solanaceae—Nightshade family:						
* * *	* * *	* * *	*	*	*	
Nothocestrum peltatum	Aiea	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Solanum sandwicense	Popolo'aiakeakua	U.S.A. (HI)	E		NA	NA
* * *	* * *	* * *	*	*	*	

Dated: September 30, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91-25902 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 56, No. 210
Wednesday, October 30, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Limiting to the Delegation of Authority To Approve Debt Settlements and Releases of Liability in Connection With Voluntary Liquidations

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of redelegation of authority

SUMMARY: On October 30, 1990, the Farmers Home Administration (FmHA) Administrator redelegated certain authorities to all State Directors dealing with the settlement of and/or release of liability on FmHA debts, owed by borrowers, who made application to settle their FmHA debts or requested release of liability. Notice of this redelegation was published in 55 FR 48141 (November 19, 1990). The redelegation authority granted on October 30, 1990, expired on September 30, 1991, and the Administrator now gives notice to renew that redelegation through September 30, 1992, but reduces the State Directors' approval authority not to exceed $1,000,000 (including principal, interest and other charges). All debt settlement/release of liability cases in excess of $1,000,000 must be submitted to the National Office for approval by the Administrator. This action is taken to expedite the processing of debt settlement applications/requests of borrowers who are unable to repay all of their FmHA debts.

The effect of the extension of the redelegation of the Administrator's authority is to continue expediting of the administrative review process for debt settlements and releases of liability permitting a more timely debt relief to FmHA borrowers, and to correspondingly reduce the Agency's portfolio of inactive uncollectible accounts.

EFFECTIVE DATE: October 1, 1991, through September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas B. Baden, Senior Loan Officer, Farmer Programs Loan Servicing Division, Farmers Home Administration, USDA, room 5437, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, telephone (202) 475–4008.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance programs affected by this notice are:

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

The notice of the delegation of authority for approving debt settlement/release of liability cases reads as follows:

This extends the authority given under the unnumbered memorandum dated October 30, 1990, entitled "Extension of the Delegation of Authority for Approving Debt Settlement/Release of Liability Cases," but reduces the approval authority not to exceed $1,000,000 (including principal, interest, and other charges). All debt settlement/release of liability cases in excess $1,000,000 must be submitted to the National Office for approval by the Administrator.

Pursuant to authority delegated to me as Administrator, Farmers Home Administration, I hereby redelegate to State Directors approval authority not to exceed $1,000,000 (including principal, interest, and other charges) for the following:

1. Debt settlement cases in accordance with § 1956.58(a) of subpart B of part 1956 of title 7 of the Code of Federal Regulations, entitled "Debt Settlement-Farmer Programs and Housing."

2. Release of liability cases in accordance with § 1955.10(f)(2) and § 1955.20(b)(2) of subpart A of part 1955 of title 7 of the Code of Federal Regulations, entitled "Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property."

3. Release of liability cases in accordance with § 1962.34(h) of subpart A of part 1962 of title 7 of the Code of Federal Regulations, entitled "Servicing and Liquidation of Chattel Security," and § 1965.26(f)(5)(ii) and § 1965.27(f) of subpart A of part 1965 of title 7 of the Code of Federal Regulations, entitled "Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases."

This authority does not extend to debt settlement of nonprogram loans, economic opportunity loans, and claims against third-party converters.

This extension of the redelegation shall be effective through September 30, 1992, unless revoked or otherwise modified in writing. The authority delegated to the State Director cannot be further delegated.

Dated: October 17, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91–26145 Filed 10–29–91; 8:45 am]

BILLING CODE 3410–07–M

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the **SUPPLEMENTARY INFORMATION** section of this notice. As provided in 36 CFR 217.5(d), the public shall be advised, through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR part 217 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning and Budget, 1720 Peachtree Road, NW., Atlanta, Georgia 30367–9102, phone: 404–347–4867.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notices of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper.

Southern Regional Forester Decisions affecting National Forest System lands in more than one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico.

Atlanta Journal, published daily in Atlanta, GA Southern Regional Forester Decision affecting National Forest System lands in only one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico will appear in the principal paper elected by the National Forest(s) of that state.

National Forests in Alabama, Alabama

Forest Supervisor Decisions:
Montgomery Advertiser, published daily in Montgomery, AL
District Rangers Decisions:
Bankhead Ranger District: Northwest Alabamian, published weekly (Monday & Thursday) in Haleyville, AL
Conecuh Ranger District: The Andalusia Star, published daily (Tuesday through Saturday) in Andalusia, AL
Brewton Standard, published daily in Brewton, AL
Oakmulgee Ranger District, The Tuscaloosa News, published daily in Tuscaloosa, AL
Shoal Greek Ranger District: The Anniston Star, published daily in Anniston, AL
Talladega Ranger District: The Daily Home, published daily in Talladega, AL
Tuskegee Ranger District: Tuskegee News, published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions:
El Nuevo Dia, published daily in Spanish in San Juan, PR
San Juan Star, published daily in San Juan, PR
District Ranger Decisions:
El Horizonte, published weekly (Wednesday) in Fajardo, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions:
The Times, published daily in Gainesville, GA
District Ranger Decisions:
Armuchee Ranger District: Walker County Messenger, published bi-weekly (Wednesday & Friday) in LaFayette, GA
Toccoa Ranger District: The News Observer published weekly (Thursday) in Blue Ridge, GA
Chestatee Ranger District: Dahlonega Nugget, published weekly (Thursday) in Dahlonega, GA
Brasstown Ranger District: North Georgia News, published weekly (Tuesday) in Blairsville, GA
Towns County Herald, published weekly (Tuesday) in Hiawesse, GA
Tallulah Ranger District: Clayton Tribune, published weekly (Wednesday) in Clayton, GA
Chattooga Ranger District: Northeast Georgian, published weekly (Friday) in Clarksville, GA
Toccoa Record, published weekly (Thursday) in Toccoa, GA
The Telegraph, published weekly (Wednesday) in Cleveland, GA
Cohutta Ranger District: Chatsworth Times, published weekly (Tuesday) in Chatsworth, GA
Oconee Ranger District: Monticello News, published weekly (Wednesday) in Monticello, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions:
Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)
Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties)
District Rangers Decisions:
Ocoee Ranger District: Polk County News, published weekly (Wednesday) in Benton, TN
Hiwassee Ranger District: Daily Post-Athenian, published daily (Monday–Friday) in Athens, TN
Tellico Ranger District: Monroe County Advocate, published weekly (Thursday) in Sweetwater, TN
Nolichucky Ranger District: Greeneville Sun, published daily (Monday–Saturday) in Greeneville, TN
Unaka Ranger District: Johnson City Press, published daily in Johnson City, TN
Watauga Ranger District: Elizabethton Star, published daily (Sunday–Friday) in Elizabethton, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions:
Lexington Herald-Leader, published daily in Lexington, KY
District Rangers Decisions:
Morehead Ranger District: Morehead News, published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: The Clay City Times, published weekly (Thursday) in Clay City, KY
Berea Ranger District: Jackson County Sun, published weekly (Thursday) in McKee, KY
London Ranger District: The Sentinel-Echo, published tri-weekly (Monday, Wednesday, and Friday) in London, KY
Somerset Ranger District: Commonwealth-Journal, published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: McCreary County Record, published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: Manchester Enterprise, published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions:
The Tallahassee Democrat, published daily in Tallahassee, FL
District Rangers Decisions:
Apalachicola Ranger District: The Weekly Journal, published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: The Ocala Star Banner, published daily in Ocala, FL
Osceola Ranger District: The Lake City Reporter, published daily (Monday–Saturday) in Lake City, FL
Seminole Ranger District: The Daily Commercial, published daily in Leesburg, FL
Wakulla Ranger District: The Tallahassee Democrat, published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions:

The State, published daily in Columbia, SC

District Rangers Decisions:

Enoree Ranger District: Newberry Observer, published tri-weekly (Monday, Wednesday, and Friday) Newberry, SC

Andrew Pickens Ranger District: Seneca Journal and Tribune, published bi-weekly (Wednesday and Friday) in Seneca, SC

Long Cane Ranger District: Index-Journal, published daily (Sunday through Friday) in Greenwood, SC

Wambaw Ranger District: News and Courier, published daily in Charleston, SC

Witherbee Ranger District: Berkeley Independent, published weekly (Wednesday) in Moncks Corner, SC

Tyger Ranger District: The State, published daily in Columbia, SC

Edgefield Ranger District: Augusta Chronicle, published daily in Augusta, GA

George Washington National Forest, Virginia

Forest Supervisor Decisions:

Daily News Record, published daily in Harrisonburg, VA

District Rangers Decisions:

Lee Ranger District: Shenandoah Valley Herald, published weekly (Wednesday) in Woodstock, VA

Warm Springs Ranger District: The Recorder, published weekly (Thursday) in Monterey, VA

Pedlar Ranger District: News-Gazette, published weekly (Wednesday) in Lexington, VA

James River Ranger District: Virginian Review, published daily in Covington, VA

Deerfield Ranger District: Daily News Leader, published daily in Staunton, VA

Dry River Ranger District: Daily News Record, published daily in Harrisonburg, VA

Jefferson National Forest, Virginia

Forest Supervisor Decisions:

Roanoke Times & World-News, published daily in Roanoke, VA

District Rangers Decisions:

Blacksburg Ranger District: Roanoke Times & World-News, published daily in Roanoke, VA

Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West Va—notice will be published in the Roanoke Times and Monroe Watchman.)

Glenwood Ranger District: Roanoke Times & World-News, published daily in Roanoke, VA

New Castle Ranger District: Roanoke Times & World-News, published daily in Roanoke, Va

Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decision in West VA—notice will be published in the Roanoke Times and Monroe Watchman.)

Mount Rogers National Recreation Area: Bristol Herald Courier, published daily in Bristol, VA

Clinch Ranger District: Bristol Herald Courier, published daily in Bristol, VA

Wythe Ranger District: Southwest Virginia Enterprise, published bi-weekly (Wednesday and Saturday) in Wytheville, VA

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions:

Alexandria Daily Town Talk, published daily in Alexandria, LA

District Ranger Decisions:

Caney Ranger District: Minden Press Herald, published daily in Minden, LA

Homer Guardian Journal, published weekly (Wednesday) in Homer, LA

Catahoula Ranger District: Alexandria Daily Town Talk, published daily in Alexandria, LA

Colfax Chronicle, published weekly (Wednesday) in Colfax, LA

Evangeline Ranger District: Alexandria Daily Town Talk, published daily in Alexandria, LA

Kisatchie Ranger District: Natchitoches Times, published bi-weekly (Sunday and Wednesday) in Natchitoches, LA

Vernon Ranger District: Leesville Leader, published daily in Leesville, LA

Winn Ranger District: Winn Parish Enterprise, published weekly (Wednesday) in Winnfield, LA

National Forests in Mississippi, Mississippi

Forest Supervisor Decisions:

Clarion-Ledger, published daily in Jackson, MS

District Ranger Decisions:

Bienville Ranger District: Clarion-Ledger, published daily in Jackson, MS

Biloxi Ranger District: Clarion-Ledger, published daily in Jackson, MS

Black Creek Ranger District: Clarion-Ledger, published daily in Jackson, MS

Bude Ranger District: Clarion-Ledger, published daily in Jackson, MS

Chickasawhay Ranger District: Clarion-Ledger, published daily in Jackson, MS

Delta Ranger District: Clarion-Ledger, published daily in Jackson, MS

Holly Springs Ranger District: Clarion-Ledger, published daily in Jackson, MS

Homochitto Ranger District: Clarion-Ledger, published daily in Jackson, MS

Strong River Ranger District: Clarion-Ledger, published daily in Jackson, MS

Tombigbee Ranger District: Clarion-Ledger, published daily in Jackson, MS

Ashe-Erambert Project: Clarion-Ledger, published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions:

The Asheville Citizen-Times, published daily in Asheville, NC

District Ranger Decisions:

Cheoah Ranger District: Graham Star, published weekly (Thursday) in Robbinsville, NC

Croatan Ranger District: The Sun Journal, published weekly (Sunday through Friday) in New Bern, NC

Carteret County New-Times, published tri-weekly (Sunday, Wednesday, and Friday) in Morehead City, NC

French Broad District: The Ashville Citizen-Times, published daily in Asheville, NC

Grandfather District: McDowell News, published daily in Marion, NC

Highlands Ranger District: The Highlander, published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Highlands, NC

Cashiers Crossroads Chronicle, published weekly (Wednesday) in Cashiers, NC

The Franklin Press, published tri-weekly (Monday, Wednesday, and Friday) in Franklin, NC

The Sylva Herald, published weekly (Thursday) in Sylva, NC

The Transylvania Times, published bi-weekly (Monday and Thursday) in Brevard, NC

Pisgah Ranger District: The Transylvania Times, published bi-weekly (Monday and Thursday) in Brevard, NC

Times-News, published daily in Hendersonville, NC

The Mountaineer, published tri-weekly (Monday, Wednesday, and Friday) in Waynesville, NC

The Asheville Citizen-Times, published daily in Asheville, NC

Toecane Ranger District: The Asheville Citizen-Times, published daily in Asheville, NC

Tusquitee Ranger District: Cherokee Scout, published weekly (Wednesday) in Murphy, NC

Clay County Progress, published

weekly (Thursday) in Hayesville, NC
Uwharrie Ranger District: Montgomery Herald, published weekly (Wednesday) in Troy, NC
Wayah Ranger District: The Franklin Press, published tri-weekly (Monday, Wednesday, and Friday) in Franklin, NC

Ouachita National Forest, Arkansas, Oklahoma

Forest Supervisor Decisions:
Arkansas Democrat, published daily in Little Rock, AR
District Ranger Decisions:
Caddo Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Cold Springs Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Fourche Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Jessieville Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Mena Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Oden Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Poteau Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Winona Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Womble Ranger District: Arkansas Democrat, published daily in Little Rock, AR
Choctaw Ranger District: Tulsa World, published daily in Tulsa, OK
Kiamichi Ranger District: Tulsa World, published daily in Tulsa, OK
Tiak Ranger District: Tulsa World, published daily in Tulsa, OK

Ozark-St. Francis National Forest: Arkansas

Forest Supervisor Decisions:
Courier-Democrat, published daily (Sunday through Friday) in Russellville, AR
District Ranger Decisions:
Sylamore Ranger District: Stone County Leader, published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: Newton County Times, published weekly (Wednesday) in Jasper, AR
Bayou Ranger District: Courier-Democrat, published daily (Sunday through Friday) in Russellville, AR
Pleasant Hill Ranger District: Johnson County Graphic, published weekly (Wednesday) in Clarksville, AR
Boston Mountain Ranger District: Southwest Times Record, published daily in Fort Smith, AR
Magazine Ranger District: Southwest Times Record, published daily in Fort Smith, AR
St. Francis Ranger District: The Daily World, published daily (Sunday through Friday) in Helena, AR

National Forests in Texas, Texas

Forest Supervisor Decisions:
The Lufkin Daily News, published daily in Lufkin, TX
District Rangers Decisions:
San Jacinto Ranger District: The Houston Post, published daily in Houston, TX
Neches Ranger District: The Lufkin Daily News, published daily in Lufkin, TX
Raven Ranger District: The Courier, published daily in Conroe, TX
Tenaha Ranger District: The Lufkin Daily News, published daily in Lufkin, TX
Trinity Ranger District: The Lufki Daily News, published daily in Lufkin, TX
Yellowpine Ranger District: The Beaumont Enterprise, published daily in Beaumont, TX
Caddo-LBJ Ranger District—Caddo-LBJ National Grassland: Denton Record-Chronicle, published daily (Sunday thru Friday) in Denton, TX.

Dated: October 24, 1991.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 91-26091 Filed 10-29-91; 8:45 am]
BILLING CODE 3410-11-M

Burnt Mountain EIS, Ski Area Improvement and Expansion Analysis, White River National Forest; Pitkin County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service will prepare an environmental impact statement to disclose effects of alternative decisions it may make to allow upgrading and/or expansion of recreational facilities within the existing permit boundaries of the Snowmass Ski Area, on the Aspen Ranger District of the White River National Forest.

DATES: Written comments concerning the scope of the analysis should be received on or before December 15. 1991.

ADDRESSES: Send written comments to Thomas A. Hoots, Forest Supervisor, White River National Forest, P.O. Box 948, 9th and Grand Ave., Glenwood Springs, Colorado 81602. Mr. Hoots is the Responsible Official for this Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: Carmine Lockwood, Project Manager, Aspen Ranger District, 806 West Hallam, Aspen, CO 81611, (303) 925-3445.

SUPPLEMENTARY INFORMATION: On August 13, 1991, Special Use Permittee Aspen Skiing Company submitted a proposal to amend their Master Development Plan for the Snowmass Ski Area. The scope of the proposal includes removing five existing lift systems; adding four high-speed lifts and a two-stage gondola; developing approximately 450 acres of new ski terrain within the Burnt Mountain expansion araa; adding approximately 350 acres of snowmaking; constructing a summit station restaurant; increasing skier capacity from 10,000 to 12,000 skiers at one time (SAOT); and providing summertime activities which include mountain biking, hiking, restaurant operations, and camping. Actions proposed on National Forest System Lands fall within the existing permit area boundary. The applicant's proposal also would involve development on adjacent private lands which have land use jurisdictions outside of Forest Service control.

The applicant's proposal is consistent with governing programmatic management direction contained in the Rocky Mountain Regional Guide and FEIS for Standards and Guidelines (1983) and in the Final EIS and Land and Resource Management Plan for the White River National Forest ("LMP,"1984). These documents direct that first priority for ski area development is the expansion of existing areas. The LMP allocated the proposed expansion area to downhill skiing use and assigned a potential development capacity of 16,600 SAOT. The site-specific environmental analysis provided by the EIS will assist the Responsible Official in determining which improvements are needed to meet the following objectives: Accommodate predicted short and long-term demand for skiing; continue the supply of high quality recreational opportunities; maintain the attractiveness and viability of the permittee's operation; and, sustain the resource uses and amenity values which local communities depend on and enjoy. Alternative development plans will be carefully examined for their potential impacts on the physical, biological, and social environments so

that tradeoffs are apparent to the decisionmaker.

Public participation will be fully incorporated into preparation of the EIS The first step is the scoping process, during which the Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or groups who may be interested or affected by the proposed action. This information will be used in preparing the EIS. Scoping will include: Inviting participation, determining the project's scope and potential issues, eliminating from detailed study those issues which are not significant, and determining potential cooperating agencies and task assignments. The public will also be invited to participate in developing alternatives, and identifying and/or reviewing the potential environmental effects of the proposed action and its alternatives.

Several public meetings will be held in the Aspen, CO area throughout the public involvement process. The exact dates and locations of these meetings will be published in local newspapers at least two weeks in advance. The first scoping meeting is currently slated for mid-November.

Preliminary issues include the potential effects of proposed actions and related off-site developments on the following elements of the biological, physical and social environments: Wildlife populations, big-game habitats, and overall biological diversity; vegetation, wetlands and riparian areas; streamflow and fisheries habitat; scenic quality; air quality; noise levels; wilderness resource values; four-season recreational resource opportunities; surface erosion and landsliding hazards; grazing; quality of and capacity for downhill skiing; traffic and transportation systems; the cost and supply of public utilities and services; local commercial establishments; housing availability and cost; personal income and revenue base to local and state governments; development in surrounding areas; and, the overall quality of life for local residents. The direct, indirect, cumulative, short-term, and long-term, aspects of impacts on national forest lands and resources, and those of connected or related effects off-site, will be fully disclosed.

Preliminary alternatives include the applicant's proposal (described above) and No Action, which in this case is continuing current administration of the ski area. Additional alternatives will be developed after the significant issues are clarified and management objectives are fully defined. The Responsible Official will be presented with a wide range of feasible and practical alternatives.

Permits and licenses required to implement the proposed action will, or may, include the following: Amended Special Use Permit from the Forest Service; section 404 Permit from the Army Corp of Engineers; consultation with U.S. Fish and Wildlife Service for compliance with section 7 of the Threatened & Endangered Species Act; certification from the Colorado Department of Health Air Pollution Control Division that air quality standards would be met; certification from the Water Quality Control Division for section 401 compliance and permit for Pollution Discharge Elimination System; review from the Colorado Department of Natural Resources Division of Wildlife, Colorado Geologic Survey, Colorado Natural Area Office, Water Conservation Board, and Division of Water Resources; approval from Colorado Department of Highways for any state highway redesign or access improvement; clearance from the Colorado State Historic Preservation Office; and various review, zoning, subdivision and permit approvals from Pitkin County and the Town of Snowmass Village.

The Forest Service predicts the Draft EIS will be filed in July of 1992 and the Final EIS in December of 1992.

The Forest Service will seek comments on the Draft EIS for a period of 45 days after its publication. Comments will then be summarized and responded to in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334. 1338 (E.D Wis 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS.

Dated: October 24, 1991.

Thomas A. Hoots,

Forest Supervisor.

[FR Doc. 91-26088 Filed 10-29-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Subcommittee on Export Administration of the President's Export Council; Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Export Administration will be held November 15, 1991, 9 a.m., U.S. Department of Commerce, Herbert Hoover Building, room 4830, 14th and Constitution Avenue NW., Washington, DC.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

General Session

Status reports by Task Force Chairmen, and update on Export Administration initiatives.

Executive Session

Discussion of matters properly classified under Executive Order 12356 pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act of 1979, as amended.

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 17, 1985, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is

available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

For further Information, contact Betty Ferrell, (202) 377–2583.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91–26169 Filed 10–29–91; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-570-506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Final Results of Antidumping Duty; Administrative Review.

SUMMARY: On August 26, 1991, the Department of Commerce published the preliminary results of its antidumping duty administrative review on porcelain-on-steel cooking ware (POS cooking ware) from the People's Republic of China (PRC). The review covers Clover Enamelware Enterprise Ltd., China, and Lucky Enamelware Factory Ltd., Hong Kong, a manufacturer and its related third-country reseller in Hong Kong of this merchandise to the United States, and the period December 1, 1989 through November 30, 1991.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 30, 1991.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes or Thomas F. Futtner, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–8120/3814.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 42027) the preliminary results of its administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China (51 FR 43414, December 2, 1986). 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 shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. During the review period, such merchandise was classifiable under items 654.0815, 654.0824, and 654.0827 of the Tariff Schedules of the United States Annotated ("TSUSA"). The merchandise is currently classifiable under HTS item 7323.94.00. The HTS and TSUSA item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer in the PRC, Clover Enamelware Enterprise Ltd., and its related third-country reseller in Hong Kong, Lucky Enamelware Factory Ltd., which exported the POS cooking ware to the United States, and the period December 1, 1989, through November 30, 1990.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review, and we determine that the following margin exists for the period December 1, 1989 through November 30, 1990:

Manufacturer/third-country reseller	Margin (percent)
Clover Enamelware Enterprise Ltd./Lucky Enamelware Factory Ltd. (Hong Kong)	66.65

Upon completion of this administrative review, the Department will issue appraisement instructions directly to Customs. Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of porcelain-on-steel cooking ware from the People's Republic of China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the final determination in the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review or, if not covered in this review, the rate from the less-than-fair-value investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm or any previously reviewed firm, will be 13.76 percent. This is the most current non-BIA rate for any firm in this proceeding.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22 of the Commerce Department's regulations (19 CFR 353.22 (1991)).

Dated: October 24, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–26170 Filed 10–29–91; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-504]

Termination of Countervailing Duty Investigation: Certain Red Raspberries From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: October 30, 1991.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Gary Bettger, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B–099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–2815 or 377–2239.

Notice of Termination

On January 9, 1986, the Department suspended the countervailing duty investigation involving certain red raspberries from Canada based on an agreement by the Government of Canada to offset or eliminate completely

the net subsidy with respect to the merchandise (51 FR 1005). On July 15, 1991, the Government of Canada submitted a letter to the Department withdrawing from the Agreement. Consequently, on September 20, 1991, the Department published a notice of determination to cancel the suspension agreement in effect with respect to certain red raspberries from Canada and to resume the investigation (56 FR 47740). However, on September 25, 1991, petitioners filed a letter with the Department withdrawing their petition and requesting that the Department terminate the above-referenced investigation.

Scope of Investigation

The product covered by this investigation is certain red raspberries from Canada. The product is classified under subheadings 4203.10.40.30, 4203.10.40.60, and 4203.10.40.90 of the Harmonized Tariff Schedule (HTS) and was formerly classified under items 791.7640 and 791.7660 of the Tariff Schedules of the United States (TSUSA). Although the HTS and TSUSA subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Determination to Terminate the Investigation

Under § 355.17(a) of the Department's regulations (19 CFR 355.17(a) (1991)), the Department may terminate an investigation upon withdrawal of the petition by the petitioner after notifying all parties to the proceeding and after consultation with the International Trade Commission (ITC). Section 355.17(a) further provides that the Department may not terminate an investigation unless it concludes that the termination is in the public interest. We have notified all parties to the proceeding and received no comments. We also have consulted with the ITC. We conclude that termination of the investigation is in the public interest. Accordingly, based on petitioners, withdrawal of the petition, we are terminating the countervailing duty investigation on certain red raspberries from Canada. In addition, the suspension of liquidation ordered in our notice of resumption of investigation is terminated and deposits of estimated countervailing duties will be refunded and bonds posted to secure possible payments of countervailing duties will be released.

This termination of investigation is in accordance with section 704(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1671c(a)(1)) and § 355.17(a)(2) of the Department's regulations.

Dated: October 23, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-26171 Filed 10-29-91; 8:45 am]

BILLING CODE 3510-DS-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review of Final Results of Countervailing Duty Administrative Review made by the Department of Commerce, International Trade Administration, Import Administration, respecting Live Swine from Canada, filed by the Canadian Pork Council and its Members with the United States Section of the Binational Secretariat on October 11, 1991.

SUMMARY: On October 11, 1991, the Canadian Pork Council and its Members filed a Request for Panel Review with the United States Section of the Binational Secretariat pursuant to Article 1904 of the United States-Canada Free-Trade Agreement. Panel review was requested of the Final Results of the Countervailing Duty Administrative Review respecting Live Swine From Canada made by the International Trade Administration, Import Administration, Import Administration File Number C-122-404. In addition, the Couvernement Du Quebec filed a Request for Panel Review in this matter. The Binational Secretariat has assigned Case Number USA-91-1904-04 to these Requests.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, Suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The panel review in this matter will be conducted in accordance with these Rules.

Rule 35(2) requires the Secretary of the responsible Section of the FTA Binational Secretariat to publish a notice that a first Request for Panel Review has been received. A first Request for Panel Review was filed with the United States Section of the Binational Secretariat, pursuant to Article 1904 of the Agreement, on October 11, 1991, requesting panel review of the final determination described above.

Rule 35(1)(c) of the Rules provides that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is November 12, 1991);

(b) A Party, investigating authority or interested person that does not file a Complaint may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is November 25, 1991); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: October 25, 1991.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 91-26172 Filed 10-29-91; 8:45 am]

BILLING CODE 3510-GT-M

National Oceanic and Atmospheric Administration

Endangered and Threatened Wildlife and Plants: Draft Recovery Plan for the Kemp's Ridley Sea Turtle

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce, U.S. Fish and Wildlife Service, Interior.

ACTION: Extension of comment period concerning the draft recovery plan for the Kemp's ridley sea turtle.

SUMMARY: NMFS will extend the comment period for the draft recovery plan for the Kemp's ridley sea turtle. The first notice of availability and request for comments was published in the Federal Register on August 13, 1991 (56 FR 38424). An extension was requested by constituent groups interested in submitting comments on the draft recovery plan. A second notice of availability and request for comments was published in the Federal Register on September 27, 1991 (56 FR 49175). A further extension was requested by several members of Congress on behalf of shrimpers who are unable to submit comments before the end of the extended comment period because they are on fishing expeditions.

DATES: Written comments should be received on or before November 29, 1991.

ADDRESSES: Comments should be addressed to Dr. Nancy Foster, Director, Office of Protected Resources, NMFS, 1135 East-West Highway, Silver Spring, MD 20910. Copies of the Draft Kemp's Ridley recovery plan are available from Jack Woody, U.S. Fish and Wildlife Service, Post Office Box 1306, Albuquerque, New Mexico 87103, or Phil Williams, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 8256, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Jack Woody at USFWS, 505/766–8062, Phil Williams at NMFS, 301/427–2322, or Charles Oravetz at NMFS, 813/893–3366.

Dated: October 24, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91–26062 Filed 10–29–91; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the inventions embodied in U.S. Patent Number 4,693,984 (Serial Number 6–925,452), titled "Method and Apparatus for Sequential Fractionation," to Biomedical Research & Development Laboratories, Inc. (Brandel) having a place of business in Gaithersburg, MD. The patent rights in this invention has been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention is an apparatus for sequentially fractionating a centrifuge tube which includes a capillary tube and a means for applying positive pressure. The capillary tube has an O-ring at the lower end thereof. As the capillary tube is placed within the centrifuge tube, the O-ring forms a seal within the tube. Movement of the capillary tube within the centrifuge tube places the liquid in the centrifuge tube under pressure, thus forcing the liquid to flow up through the capillary tube and into a chamber. A chase fluid is then pumped horizontally through the chamber to force the liquid therein through an exist port and into a fraction collector. The apparatus and method of the present invention may be entirely automated and controlled by a single microprocessor.

The availability of U.S. Patent Number 4,639,984 (SN 6–925,452) for license is announced herein. It is a continuation-in-part of SN 6–724,033, whose availability for licensing was published in the Federal Register Vol. 50, #177, p. 37263 (September 12, 1985). Said parent application was subsequently abandoned; the exclusive license to this invention previously granted to Beckman Instruments, Inc. of Fullerton, CA has been terminated.

A copy of the instant patent may be purchased from the Commissioner of Patents and Trademarks, Box 9, Washington, DC 20231 at a cost of $1.50 (payable by check or money order).

Inquiries, comments and other materials relating to the contemplated license must be submitted to Neil L. Mark, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–26057 Filed 10–29–91; 8:45 am]

BILLING CODE 3510–04–M

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the inventions embodied in U.S. Patent Application Serial Number 7–687,526, titled "Identification of a New Ehrlichia Species from a Patient Suffering from Ehrlichiosis," to MRL/Focus, Inc. having a place of business in Cypress, CA. The patent rights in this invention has been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention consists of a new isolate of *Ehrlichia* species which has been obtained from a patient suffering from ehrlichiosis. The new isolate has been found to be similar, but distinctly different from *E. canis*. A diagnostic kit and methods for diagnosing ehrlichiosis in humans and for screening drugs toxic to the new isolate have been described.

The availability of SN 7–687,526 for licensing was published in the Federal Register, Vol. 56, #143, p. 34054 (July 25, 1991).

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 1–800–553–NTIS or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries comments and other materials relating to the contemplated license must be submitted to Neil L.

Mark, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91-26058 Filed 10-29-91; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in El Salvador

October 24, 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: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, 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).

The Bilateral Textile Agreement, effected by exchange of notes dated March 2, 1987 and April 30, 1987, as amended, between the Governments of the United States and the Republic of El Salvador establishes a limit for Categories 300/301 for the period beginning on January 1, 1992 and extending through December 31, 1992.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-3889.

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). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

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 bilateral agreement, 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

October 24, 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 Bilateral Textile Agreement, effected by exchange of notes dated March 2, 1987 and April 30, 1987; between the Governments of the United States and the Republic of El Salvador; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 300/301, produced or manufactured in El Salvador and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of 4,086,867 kilograms.

Imports charged to this category limit for the period January 1, 1991 through December 31, 1991 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 current bilateral agreement between the Governments of the United States and the Republic of El Salvador.

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. 91-26166 Filed 10-29-91; 8:45 am]

BILLING CODE 3510-DR-F

Increase of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Jamaica

October 24, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: October 31, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this level, 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).

The United States Government agreed to increase the current guaranteed access level for Categories 352/652 for 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). Also see 55 FR 49937, published on December 3, 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 bilateral agreement, 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

October 24, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Jamaica and exported during the twelve-

month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on October 31, 1991, you are directed to amend the November 27, 1990 directive to increase to 3,400,000 dozen the current guaranteed access level for Categories 352/652, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Jamaica.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to 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. 91-26167 Filed 10-29-91; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Taiwan

October 24, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 24, 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 these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-8791. 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).

The current limits for certain categories are being adjusted to undo special shift previously applied.

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). Also see 55 FR 50862, published on December 11, 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 bilateral agreement, 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

October 24, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on October 24, 1991, you are directed to amend further the directive dated December 5, 1990 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement effected by exchange of notes dated August 21, 1990 and September 28, 1990:

Category	Adjusted twelve-month limit [1]
Sublevels in Group II	
435	20,998 dozen.
442	40,224 dozen.
444	102,125 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-26168 Filed 10-29-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States, DD Form 2168, 0704-0100.

Type of Request: Revision.

Average Burden Hours/Minutes per Response: .5 hours.

Responses per Respondent: 1.

Number of Respondents: 1,000.

Annual Burden Hours: 500.

Annual Responses: 1,000.

Needs and Uses: This program is essential to identify and collect basic information needed to search available records or develop sufficient information to determine the applicant's membership in a group approved by the DoD Civilian/Military Service Review Board for equivalent active military service status.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Office: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written request for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: October 23, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26114 Filed 10-29-91; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of revised rates.

SUMMARY: This notice provides the updated adjusted standardized amounts, DRG relative weights, outlier thresholds, and beneficiary cost-share per diem rates to be used for FY 1992 under the CHAMPUS DRG-based payment system. It also describes the non-regulatory changes made to the CHAMPUS DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS).

DATES: *Effective Date.* The rates and weights contained in this notice are effective for admissions occurring on or after October 1, 1991.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045–6900.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Office of Program Development, OCHAMPUS, telephone (303) 361–4005.

To obtain copies of this document, see the "ADDRESS" section above. Questions regarding payment of specific claims under the CHAMPUS DRG-based payment system should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987, (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published on August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863, and October 22, 1990 (55 FR 42560).

An explicit tenet of these final rules, and one based on the statute authorizing use of DRGs by CHAMPUS, is that the CHAMPUS DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the CHAMPUS system will follow the same rules that apply to the Medicare PPS.

We are not initiating any changes to the CHAMPUS DRG-based payment system, but this notice describes certain changes effective for the fifth year of its operation which are necessary in order to conform to changes to the Medicare PPS. These changes were published as a proposed rule on June 3, 1991 (56 FR 25178), and as a final rule on August 30, 1991 (56 FR 43196). We refer the reader to these rules for detailed discussions of the changes. In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below

I. Medicare PPS Changes Which Affect the CHAMPUS DRG-Based Payment System

Following is a discussion of the changes the Health Care Financing Administration (HCFA) has made to the Medicare PPS which affect the CHAMPUS DRG-based payment system.

A. DRG Classification

Under both the Medicare PPS and the CHAMPUS DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the CHAMPUS DRG-based payment system is the same as the current Medicare Grouper with two modifications. The CHAMPUS system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and we have implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. Grouping for all other DRGs under the CHAMPUS system is identical to the Medicare PPS.

For FY 1992 HCFA will implement a number of classification changes, including surgical hierarchy changes, refinements to the complications and comorbidities list, and coding changes in the Grouper. The CHAMPUS Grouper will duplicate all changes made to the Medicare Grouper. In addition, HCFA has added two new DRGs and renamed two DRGs. The CHAMPUS system also will duplicate these changes.

It is important to note that these DRG changes will affect neither our existing coverage requirements nor the DRG exemption status of certain procedures. However, they will improve the payment precision of our DRG system, since resource use of services grouped to the DRGs will be more uniform.

B. Wage Index

The CHAMPUS DRG-based payment system will continue to use the same wage index amounts used for the Medicare PPS. This includes all updates to the wage indexes which are effective on or after October 1, 1991, as well as any subsequent changes to those updates. Since we use the wage index amounts calculated by HCFA, any changes which were phased in for the Medicare PPS also will be phased in for CHAMPUS. In addition, we will duplicate all changes with regard to the wage index for specific hospitals which are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

We will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS. According to HCFA's August 30 final rule, the market basket is 4.4 percent, to be reduced 1.6 percentage points for urban areas and 0.6 percentage points for rural areas

D. Outliers

We will continue to use outlier thresholds calculated in accordance with the Medicare PPS procedures. Since CHAMPUS will not include capital payments in our DRG-based payments, we will use the thresholds calculated by HCFA for paying outliers in the absence of capital prospective payments (56 FR 25195). For long-stay outliers this will be the geometric mean length of stay plus the lesser of thirty-two (32) days or three standard deviations. For cost outliers the threshold will be the greater of two times the DRG-based amount or $40,100.

E. Other Related Changes

1 Payment for Blood Clotting Factor

In our final rule of October 22, 1990, we included provisions to exempt blood clotting factor for hemophilia inpatients from the CHAMPUS DRG-based payment system and allow separate payment for the factors. Those payments are based on the amounts established by HCFA for the Medicare PPS, and we stated that if HCFA changes the amounts, CHAMPUS will use whatever new amounts are established for the Medicare PPS. The initial payment levels were published in the **Federal Register** on April 20, 1990 (55 FR 15157). HCFA's June 3, 1991, proposed rule updates the payment levels for clotting factor effective October 1, 1991 The new payment levels, which CHAMPUS will also use, are:

Factor VIII	$.72 per unit
Factor IX	$.26 per unit
Other hemophilia blood clotting factor.	$1.11 per unit

2. Changes on the UB–82 Form

Effective October 1, 1991, HCFA will begin accepting nine diagnosis codes and six procedure codes on the UB–82 billing form. We agree that the additional diagnosis and procedure codes will help to ensure that complete medical information is received for each

claim. Accordingly, we intend to adopt this change as soon as our fiscal intermediaries can modify their systems to accommodate the additional codes. Since the CHAMPUS Grouper is based on, and very similar to, the Medicare Grouper, this change will be easily incorporated into it.

II. Updated Rates and Weights

Tables 1 and 2 provide the rates and weights to be used under the CHAMPUS DRG-based payment system during FY 1992 and which are a result of the changes described above. The implementing regulations for the CHAMPUS DRG-based payment system are in 32 CFR part 199.

Dated: October 25, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

The following summary provides the adjusted standardized amounts and the cost-share per diem for beneficiaries other than dependents of active-duty members.

The adjusted standardized amounts are effective for admissions occurring on or after October 1, 1991.

TABLE 1—NATIONAL URBAN AND RURAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR, AND COST-SHARE PER DIEM

National Large Urban Adjusted:	
Standardized Amount	$3,189.69
Labor portion	2,258.94
Nonlabor portion	930.75
National Other Urban Adjusted:	
Standardized Amount	$3,122.59
Labor portion	2,211.42
Nonlabor portion	911 17
National Rural Adjusted Standardized:	
Amount	$3,068.63
Labor portion	2,320.80
Nonlabor portion	747.83
Cost-share per diem for beneficiaries other than dependents of active-duty members	$317.00

The cost-share per diem is effective for inpatient days of care occurring on or after October 1, 1991

BILLING CODE 3810-01-M

Table 2 - CHAMPUS Weights and Threshold Summary

Effective for admissions occurring on or after October 1, 1991.

The following summary shows the final CHAMPUS DRG weights as well as the arithmetic and geometric average lengths of stay and outlier thresholds for all CHAMPUS DRGs. Long stay threshold (A) is applicable to all hospitals except children's hospitals, and long stay threshold (B) is applicable to children's hospitals.

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD (A)	LONG STAY THRESHOLD (B)
1	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.8280	12.4	9.3	1	41	26
2	CRANIOTOMY FOR TRAUMA AGE >17	4.5680	11.9	8.5	1	40	25
3	CRANIOTOMY AGE 0-17	2.9004	9.6	6.0	1	38	23
4	SPINAL PROCEDURES	2.3691	10.0	6.9	1	38	23
5	EXTRACRANIAL VASCULAR PROCEDURES	1.7680	5.5	4.5	1	25	13
6	CARPAL TUNNEL RELEASE	0.6441	1.8	1.5	1	8	4
7	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	2.8626	12.3	7.0	1	38	23
8	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	1.0319	3.7	2.4	1	30	12
9	SPINAL DISORDERS & INJURIES	3.2160	19.6	8 9	1	40	25
10	NERVOUS SYSTEM NEOPLASMS W CC	1.3039	8.3	4.9	1	36	21
11	NERVOUS SYSTEM NEOPLASMS W/O CC	1.0570	5.9	3.7	1	35	20
12	DEGENERATIVE NERVOUS SYSTEM DISORDERS	1.9570	14.2	8 2	1	40	25
13	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	0 9439	6.9	5.3	1	37	22
14	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.5866	8.3	5.8	1	37	22
15	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	0.8088	4.2	3.2	1	28	13
16	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.5312	7.4	5.2	1	37	22
17	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	1.8699	8.3	5.1	1	37	22
18	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	0.9623	6.3	4.6	1	36	21
19	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	0.6746	4.3	3.1	1	35	15
20	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	2.1507	9.9	7.3	1	39	24
21	VIRAL MENINGITIS	0.6199	4.0	3.4	1	17	9
22	HYPERTENSIVE ENCEPHALOPATHY	0.8123	4.3	3.4	1	26	12
23	NONTRAUMATIC STUPOR & COMA	1.0155	4.6	3.0	1	34	17
24	SEIZURE & HEADACHE AGE >17 W CC	0.9343	5.2	3.8	1	35	16
25	SEIZURE & HEADACHE AGE >17 W/O CC	0.5487	3.5	2.6	1	22	10
26	SEIZURE & HEADACHE AGE 0-17	0.5648	3.8	2.6	1	25	11
27	TRAUMATIC STUPOR & COMA, COMA >1 HR	2.6305	7.2	3.9	1	35	20
28	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W CC	1.3989	6.4	4.4	1	36	21
29	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	1.2508	6.9	3.6	1	35	20
30	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	0.7529	3.8	2.2	1	34	13
31	CONCUSSION AGE >17 W CC	0.8301	4.4	2.7	1	34	14
32	CONCUSSION AGE >17 W/O CC	0.4956	2.2	1.7	1	11	5
33	CONCUSSION AGE 0-17	0.2693	1.4	1.3	1	4	2
34	OTHER DISORDERS OF NERVOUS SYSTEM W CC	1.7082	8 7	5.7	1	37	22
35	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	1.4441	9.3	5.4	1	37	22
36	RETINAL PROCEDURES	0.7866	2.2	1.8	1	10	5
37	ORBITAL PROCEDURES	0.9488	3.3	2.4	1	24	10
38	PRIMARY IRIS PROCEDURES	0.3532*	0.0	2.1	1	16	16
39	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	0 7844	1.9	1.6	1	9	5
40	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	0.6521	2.0	1.6	1	10	5
41	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	0.4574	1.3	1.2	1	3	2
42	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	0 7959	2.4	1.9	1	12	6

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD (A)	LONG STAY THRESHOLD (B)
43	HYPHEMA	0.2628	3.5	2.9	1	19	9
44	ACUTE MAJOR EYE INFECTIONS	0.4188	3.6	3.1	1	16	9
45	NEUROLOGICAL EYE DISORDERS	0.7442	3.9	3.1	1	27	12
46	OTHER DISORDERS OF THE EYE AGE >17 W CC	0.9784	4.6	3.1	1	35	18
47	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	0 5041	3.1	2.6	1	18	9
48	OTHER DISORDERS OF, THE EYE AGE 0-17	0.5571	3.3	2.6	1	19	9
49	MAJOR HEAD & NECK PROCEDURES	2.3729	7.5	4.4	1	36	21
50	SIALOADENECTOMY	0.7313	1.7	1.5	1	5	3
51	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	0.7058	1.6	1.4	1	6	3
52	CLEFT LIP & PALATE REPAIR	0.7551	2.2	1.9	1	11	5
53	SINUS & MASTOID PROCEDURES AGE >17	0.7762	2.1	1.6	1	11	5
54	SINUS & MASTOID PROCEDURES AGE 0-17	0.8366	2.2	1.6	1	13	6
55	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES	0.6332	1.6	1.3	1	6	3
56	RHINOPLASTY	0.6209	1.4	1.2	1	3	2
57	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.5401	2.2	1.7	1	10	5
58	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.4421	1.5	1.3	1	5	3
59	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.4277	1.5	1.2	1	5	3
60	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.3591	1 2	1.1	1	2	1
61	MYRINGOTOMY W TUBE INSERTION AGE >17	0.8781	3.2	2.3	1	29	11
62	MYRINGOTOMY W TUBE INSERTION AGE 0-17	0.6781	2.9	1.9	1	24	9
63	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.1219	2.9	2.3	1	16	8
64	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.9087	7.0	3.6	1	35	20
65	DYSEQUILIBRIUM	0.4407	2.7	2.3	1	13	7
66	EPISTAXIS	0.5148	3.5	3.0	1	17	9
67	EPIGLOTTITIS	1.0666	4.0	2.9	1	29	13
68	OTITIS MEDIA & URI AGE >17 W CC	0.6647	4.0	3.4	1	19	10
69	OTITIS MEDIA & URI AGE >17 W/O CC	0.5109	3.3	2.8	1	16	8
70	OTITIS MEDIA & URI AGE 0-17	0.4222	3.1	2.6	1	15	8
71	LARYNGOTRACHEITIS	0.3623	2 3	1.9	1	10	5
72	NASAL TRAUMA & DEFORMITY	0.4997	2.1	1.6	1	12	6
73	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	0.6542	3.8	2.7	1	29	12
74	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	0.5571	3.3	2.4	1	23	10
75	MAJOR CHEST PROCEDURES	3.2289	10.9	8.9	1	40	25
76	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.7833	11.0	7.4	1	39	24
77	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.3138	5.3	4.1	1	36	19
78	PULMONARY EMBOLISM	1.4718	8 0	6.8	1	38	22
79	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	2.2984	10 4	7.8	1	39	24
80	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	1 2220	6 7	5.6	1	30	16
81	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	1.6513	7 3	4 9	1	36	21
82	RESPIRATORY NEOPLASMS	1.4774	7 5	5 1	1	37	22
83	MAJOR CHEST TRAUMA W CC	0.8725	4 9	4.1	1	26	13
84	MAJOR CHEST TRAUMA W/O CC	0.6161	3.3	2.6	1	21	10
85	PLEURAL EFFUSION W CC	1.3287	7.1	5.5	1	37	22
86	PLEURAL EFFUSION W/O CC	0.7786	5 4	3 6	1	35	19
87	PULMONARY EDEMA & RESPIRATORY FAILURE	2.0763	8 3	6.2	1	38	23
88	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	1.1391	6 2	5 0	1	35	17
89	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	1.2878	6 8	5 7	1	34	18
90	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	0.7593	4 7	4.1	1	21	11
91	SIMPLE PNEUMONIA & PLEURISY AGE 0-17	0.6144	4 0	3.4	1	18	10
92	INTERSTITIAL LUNG DISEASE W CC	1.2897	7 8	5.3	1	37	22
93	INTERSTITIAL LUNG DISEASE W/O CC	0.7280	4 5	3.8	1	25	12
94	PNEUMOTHORAX W CC	1 3728	8 5	6.2	1	38	23
95	PNEUMOTHORAX W/O CC	0 5979	4 2	3 4	1	26	12
96	BRONCHITIS & ASTHMA AGE >17 W CC	1 0550	5 7	4 7	1	29	15

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97	BRONCHITIS & ASTHMA AGE >17 W/O CC	0.6476	4.0	3.3	1	20	10
98	BRONCHITIS & ASTHMA AGE 0-17	0.5293	3.2	2.7	1	15	8
99	RESPIRATORY SIGNS & SYMPTOMS W CC	0.8728	3.9	2.9	1	26	12
100	RESPIRATORY SIGNS & SYMPTOMS W/O CC	0.5471	2.6	2.1	1	13	6
101	OTHER RESPIRATORY SYSTEM DIAGNOSES W CC	1.1746	5.1	3.7	1	35	17
102	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	0.7721	3.8	2.7	1	27	12
103	HEART TRANSPLANT	-	-	-	-	-	-
104	CARDIAC VALVE PROCEDURES W CARDIAC CATH	9.5085	15.9	13.8	2	45	30
105	CARDIAC VALVE PROCEDURES W/O CARDIAC CATH	6.3831	11.0	9.9	2	39	24
106	CORONARY BYPASS W CARDIAC CATH	6.0589	11.3	10.5	3	33	22
107	CORONARY BYPASS W/O CARDIAC CATH	5.1801	9.4	8.7	2	26	18
108	OTHER CARDIOTHORACIC PROCEDURES	5.6214	10.4	8.6	1	40	25
109	NO LONGER VALID	-	-	-	-	-	-
110	MAJOR CARDIOVASCULAR PROCEDURES W CC	4.5751	11.2	8.9	1	40	25
111	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	2.6824	7.0	6.1	1	33	18
112	PERCUTANEOUS CARDIOVASCULAR PROCEDURES	2.3897	4.7	3.7	1	31	14
113	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	4.0589	16.5	13.4	1	45	30
114	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	1.9499	12.2	9.0	1	41	26
115	PERM CARDIAC PACEMAKER IMPLANT W AMI, HEART FAILURE OR SHOCK	4.6858	12.8	11.5	3	43	27
116	PERM CARDIAC PACEMAKER IMPLANT W/O AMI, HEART FAILURE OR SHOCK	3.0754	5.8	4.2	1	36	19
117	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	1.3154	3.8	2.2	1	31	12
118	CARDIAC PACEMAKER DEVICE REPLACEMENT	2.2420	3.3	2.2	1	26	10
119	VEIN LIGATION & STRIPPING	0.7026	2.2	1.7	1	11	5
120	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.8340	12.0	7.2	1	39	24
121	CIRCULATORY DISORDERS W AMI & C.V. COMP DISCH ALIVE	2.1293	7.7	6.5	1	38	22
122	CIRCULATORY DISORDERS W AMI W/O C.V. COMP DISCH ALIVE	1.6476	6.0	5.1	1	31	16
123	CIRCULATORY DISORDERS W AMI, EXPIRED	1.8550	3.1	2.0	1	26	10
124	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG	1.3018	4.2	3.1	1	32	14
125	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG	0.8641	2.4	1.9	1	13	6
126	ACUTE & SUBACUTE ENDOCARDITIS	2.9888	15.4	11.6	1	43	28
127	HEART FAILURE & SHOCK	1.2218	6.3	5.0	1	37	18
128	DEEP VEIN THROMBOPHLEBITIS	0.9120	7.4	6.3	1	36	19
129	CARDIAC ARREST, UNEXPLAINED	2.4190	5.6	2.9	1	34	19
130	PERIPHERAL VASCULAR DISORDERS W CC	1.1637	7.3	5.5	1	37	22
131	PERIPHERAL VASCULAR DISORDERS W/O CC	0.7833	5.2	3.8	1	35	19
132	ATHEROSCLEROSIS W CC	1.2101	3.9	2.9	1	28	12
133	ATHEROSCLEROSIS W/O CC	0.9060	3.4	2.2	1	24	10
134	HYPERTENSION	0.5584	4.8	3.2	1	35	15
135	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC	1.0800	5.1	3.3	1	35	17
136	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC	0.7304	2.9	2.2	1	20	9
137	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17	1.6812	3.3	2.0	1	23	10
138	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC	0.8451	4.0	3.1	1	26	12
139	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	0.5632	2.8	2.2	1	15	7
140	ANGINA PECTORIS	0.7389	3.3	2.7	1	17	9
141	SYNCOPE & COLLAPSE W CC	0.6988	3.6	2.9	1	21	10
142	SYNCOPE & COLLAPSE W/O CC	0.4929	2.5	2.1	1	12	6
143	CHEST PAIN	0.5607	2.5	2.1	1	12	6
144	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.3060	6.0	4.5	1	36	20
145	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	0.9186	3.8	2.8	1	28	12
146	RECTAL RESECTION W CC	2.7794	11.8	10.7	2	40	25
147	RECTAL RESECTION W/O CC	2.0913	8.8	8.4	3	21	15
148	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	3.3146	12.9	10.9	2	42	27
149	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.7726	8.1	7.0	1	39	21
150	PERITONEAL ADHESIOLYSIS W CC	2.4091	10.2	8.6	1	40	25

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151	PERITONEAL ADHESIOLYSIS W/O CC	1.3542	6.6	5.3	1	37	19
152	MINOR SMALL & LARGE BOWEL PROCEDURES W CC	1.8391	8.7	7.0	1	38	23
153	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.2482	6.0	5.2	1	27	15
154	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC	3.6391	11.9	9.5	1	41	26
155	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC	1.7126	6.8	6.0	1	26	15
156	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17	1.3283	6.2	4.7	1	36	18
157	ANAL & STOMAL PROCEDURES W CC	0.8836	4.3	3.3	1	28	13
158	ANAL & STOMAL PROCEDURES W/O CC	0.6112	2.7	2.2	1	13	7
159	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC	1.0890	4.3	3.6	1	26	12
160	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC	0.8233	3.3	2.6	1	18	9
161	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC	0.8107	2.7	2.2	1	15	7
162	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	0.5417	1.7	1.4	1	6	3
163	HERNIA PROCEDURES AGE 0-17	0.5023	1.8	1.5	1	8	4
164	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	2.1098	8.7	7.7	1	35	20
165	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.1825	5.3	4.7	1	24	13
166	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC	1.0212	4.5	4.0	1	17	10
167	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	0.7121	3.0	2.8	1	10	6
168	MOUTH PROCEDURES W CC	1.5779	5.9	4.8	1	36	17
169	MOUTH PROCEDURES W/O CC	0.7259	2.5	1.9	1	15	7
170	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	2.8014	11.9	8.3	1	40	25
171	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.1744	4.9	3.9	1	31	15
172	DIGESTIVE MALIGNANCY W CC	1.7150	9.9	5.9	1	37	22
173	DIGESTIVE MALIGNANCY W/O CC	0.9148	4.5	3.0	1	35	17
174	G.I. HEMORRHAGE W CC	1.0126	4.9	4.1	1	24	12
175	G.I. HEMORRHAGE W/O CC	0.5986	3.3	2.7	1	16	8
176	COMPLICATED PEPTIC ULCER	0.9916	5.6	4.2	1	36	17
177	UNCOMPLICATED PEPTIC ULCER W CC	0.8278	4.9	4.0	1	26	13
178	UNCOMPLICATED PEPTIC ULCER W/O CC	0.6012	3.4	2.9	1	16	8
179	INFLAMMATORY BOWEL DISEASE	0.9640	6.2	5.1	1	36	18
180	G.I. OBSTRUCTION W CC	0.9815	5.8	4.4	1	36	18
181	G.I. OBSTRUCTION W/O CC	0.5621	3.7	3.0	1	22	10
182	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC	0.7112	4.2	3.4	1	24	12
183	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC	0.5098	3.1	2.5	1	17	8
184	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17	0.3634	2.8	2.3	1	14	7
185	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17	0.7061	3.8	2.8	1	29	12
186	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17	0.4929	3.0	2.3	1	19	9
187	DENTAL EXTRACTIONS & RESTORATIONS	1.0150	4.3	2.8	1	34	14
188	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	1.1003	5.8	4.1	1	36	21
189	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	0.5866	3.5	2.6	1	25	11
190	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17	0.5285	2.9	2.1	1	20	9
191	PANCREAS, LIVER & SHUNT PROCEDURES W CC	4.9212	16.1	12.3	1	44	29
192	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.9631	7.6	6.4	1	38	22
193	BILIARY TRACT PROC EXCEPT ONLY TOT CHOLECYST W OR W/O C.D.E. W	3.4333	13.4	10.6	1	42	27
194	BILIARY TRACT PROC EXCEPT ONLY TOT CHOLECYST W OR W/O C.D.E. W/O	1.6258	6.1	4.3	1	36	21
195	TOTAL CHOLECYSTECTOMY W C.D.E. W CC	1.8513	7.5	6.9	1	23	15
196	TOTAL CHOLECYSTECTOMY W C.D.E. W/O CC	1.6410	6.9	6.3	1	25	15
197	TOTAL CHOLECYSTECTOMY W/O C.D.E. W CC	1.5548	5.9	4.9	1	34	17
198	TOTAL CHOLECYSTECTOMY W/O C.D.E. W/O CC	0.9851	3.3	2.6	1	21	10
199	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.7475	10.9	8.8	1	40	25
200	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY	2.2945	8.0	5.8	1	37	22

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201	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	2.4422	8.8	6.5	1	38	23
202	CIRRHOSIS & ALCOHOLIC HEPATITIS	1.7064	8.5	6.1	1	38	23
203	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.3862	7.8	5.3	1	37	22
204	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.1127	6.5	5.1	1	37	20
205	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC	1.6394	8.1	5.4	1	37	22
206	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	0.6008	3.6	2.5	1	29	12
207	DISORDERS OF THE BILIARY TRACT W CC	0.8980	4.8	3.8	1	29	14
208	DISORDERS OF THE BILIARY TRACT W/O CC	0.5180	2.7	2.2	1	14	7
209	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES	2.9627	9.0	8.3	2	26	17
210	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC	2.5609	11.4	9.5	1	41	26
211	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC	1.8322	8.0	6.7	1	38	21
212	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	1.4847	7.2	4.5	1	36	21
213	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS	2.1519	11.1	7.8	1	39	24
214	BACK & NECK PROCEDURES W CC	2.1570	7.7	6.3	1	38	21
215	BACK & NECK PROCEDURES W/O CC	1.2494	4.7	4.0	1	21	12
216	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	1.8098	8.3	5.4	1	37	22
217	WND DEBRID & SKN GRFT EXCEPT HAND,FOR MUSCSKELET & CONN TISS DIS	2.7112	11.1	6.6	1	38	23
218	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W CC	1.6500	6.9	5.4	1	37	19
219	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W/O CC	1.0431	3.8	3.2	1	18	10
220	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE 0-17	0.8492	3.0	2.2	1	20	9
221	KNEE PROCEDURES W CC	1.7254	5.6	4.3	1	36	18
222	KNEE PROCEDURES W/O CC	1.0542	3.1	2.6	1	13	7
223	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC	0.8569	2.6	2.1	1	12	6
224	SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC	0.8023	2.4	1.9	1	11	6
225	FOOT PROCEDURES	0.8151	2.6	2.1	1	14	7
226	SOFT TISSUE PROCEDURES W CC	1.1531	4.6	3.2	1	35	16
227	SOFT TISSUE PROCEDURES W/O CC	0.7696	2.6	2.1	1	13	6
228	MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC	0.9593	3.0	2.1	1	19	8
229	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	0.6487	1.8	1.5	1	7	4
230	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR	0.7841	3.0	2.1	1	19	8
231	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR	0.9238	3.3	2.4	1	21	9
232	ARTHROSCOPY	0.9191	2.7	2.0	1	17	8
233	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	2.5632	8.1	5.5	1	37	22
234	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC	1.2203	3.8	2.9	1	26	12
235	FRACTURES OF FEMUR	1.0188	10.0	6.1	1	38	23
236	FRACTURES OF HIP & PELVIS	0.9355	8.0	5.4	1	37	22
237	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	0.6425	4.7	3.6	1	35	16
238	OSTEOMYELITIS	1.3986	10.7	8.2	1	40	25
239	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY	1.4170	9.0	6.1	1	38	23
240	CONNECTIVE TISSUE DISORDERS W CC	1.3830	7.1	4.8	1	36	21
241	CONNECTIVE TISSUE DISORDERS W/O CC	0.7698	4.9	3.3	1	35	17
242	SEPTIC ARTHRITIS	0.9834	6.4	5.3	1	37	19
243	MEDICAL BACK PROBLEMS	0.6199	4.4	3.2	1	35	15
244	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC	0.8798	5.5	4.2	1	36	17
245	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	0.8287	4.9	3.5	1	35	17
246	NON-SPECIFIC ARTHROPATHIES	0.8190	4.9	3.6	1	35	15
247	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE	0.6012	3.9	2.7	1	29	12
248	TENDONITIS, MYOSITIS & BURSITIS	0.5014	3.0	2.5	1	15	8
249	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	0.5746	3.9	2.9	1	30	13
250	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC	0.5649	3.4	2.7	1	21	10

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD (A)	LONG STAY THRESHOLD (B)
251	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC	0.4412	2.5	1.9	1	14	7
252	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17	0.3360	1.4	1.2	1	4	2
253	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W CC	0.8403	5.3	3.6	1	35	19
254	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC	0.5195	3.8	2.7	1	29	12
255	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17	0.4519	2.6	1 8	1	15	7
256	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES	0.6165	3.3	2.4	1	23	10
257	TOTAL MASTECTOMY FOR MALIGNANCY W CC	1.0894	3.9	3.4	1	15	8
258	TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.9290	3.2	2.9	1	11	6
259	SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC	0.9605	4.1	2.8	1	25	11
260	SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.7747	2.2	1.9	1	8	5
261	BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION	0.9541	2.2	1.9	1	9	5
262	BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	0.6460	1.9	1.5	1	9	5
263	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC	2.8499	13.7	9.9	1	41	26
264	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC	1.3235	8.3	5.3	1	37	22
265	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC	1.7650	7.1	5.1	1	37	22
266	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O C	0.9361	3.5	2.4	1	28	11
267	PERIANAL & PILONIDAL PROCEDURES	0.5052	1.6	1.3	1	5	3
268	SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES	0.8001	2.4	1.9	1	13	6
269	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.7460	7.7	5.1	1	37	22
270	OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC	0.8072	3.3	2.4	1	24	10
271	SKIN ULCERS	1.3845	10.9	7.8	1	39	24
272	MAJOR SKIN DISORDERS W CC	1.4497	7.3	5.3	1	37	22
273	MAJOR SKIN DISORDERS W/O CC	0.5475	4.5	3.1	1	35	15
274	MALIGNANT BREAST DISORDERS W CC	1.6225	9.2	5.9	1	37	22
275	MALIGNANT BREAST DISORDERS W/O CC	0.7094	5.9	2.9	1	34	19
276	NON-MALIGANT BREAST DISORDERS	0.6302	3.3	2.5	1	22	10
277	CELLULITIS AGE >17 W CC	0.9828	6.5	5.4	1	32	17
278	CELLULITIS AGE >17 W/O CC	0.6014	4.4	3.8	1	21	11
279	CELLULITIS AGE 0-17	0.5451	4.1	3.5	1	20	10
280	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	0.7674	3.8	2.7	1	27	12
281	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC	0.5301	2.8	2.1	1	17	8
282	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17	0.4197	2.1	1.7	1	10	5
283	MINOR SKIN DISORDERS W CC	0.6765	4.9	3.9	1	34	15
284	MINOR SKIN DISORDERS W/O CC	0.5759	4.0	2.7	1	34	14
285	AMPUTAT OF LOWER LIMB FOR ENDOCRINE,NUTRIT,& METABOL DISORDERS	2.5948	15.7	11.4	1	43	28
286	ADRENAL & PITUITARY PROCEDURES	2.2519	8.6	7.3	1	36	20
287	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS	1.8932	10.6	7.7	1	39	24
288	O.R. PROCEDURES FOR OBESITY	1.7096	5.0	4.6	1	15	10
289	PARATHYROID PROCEDURES	0.8619	3.0	2.5	1	13	7
290	THYROID PROCEDURES	0.7763	2.3	2.0	1	9	5
291	THYROGLOSSAL PROCEDURES	0.6307	1.7	1.4	1	7	4
292	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	3.2434	15.1	9.7	1	41	26
293	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.9175	7.6	5.2	1	37	22
294	DIABETES AGE >35	0.7179	5.2	4.3	1	26	14
295	DIABETES AGE 0-35	0.5814	4.1	3.4	1	21	11
296	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	1.0656	6.2	4.4	1	36	21
297	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC	0.5536	3.7	2.7	1	24	11
298	NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17	0.4525	3.5	2.7	1	21	10
299	INBORN ERRORS OF METABOLISM	1.0000	5.7	3.6	1	35	20
300	ENDOCRINE DISORDERS W CC	1.0367	6.0	4.5	1	36	20

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD (A)	LONG STAY THRESHOLD (B)
301	ENDOCRINE DISORDERS W/O CC	0.5450	3.7	2.8	1	25	11
302	KIDNEY TRANSPLANT	4.8203	12.0	10.5	2	42	27
303	KIDNEY,URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM	2.5911	10.0	9.0	2	34	21
304	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC	1.9124	8.4	6.7	1	38	23
305	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC	1.2839	5.5	4.8	1	24	13
306	PROSTATECTOMY W CC	1.1894	4.9	3.9	1	32	15
307	PROSTATECTOMY W/O CC	0.8222	3.2	2.8	1	15	8
308	MINOR BLADDER PROCEDURES W CC	2.1699	9.0	6.0	1	38	23
309	MINOR BLADDER PROCEDURES W/O CC	0.9794	4.0	3.2	1	27	12
310	TRANSURETHRAL PROCEDURES W CC	1.1354	4.4	3.3	1	32	14
311	TRANSURETHRAL PROCEDURES W/O CC	0.7021	2.4	2.0	1	11	6
312	URETHRAL PROCEDURES, AGE >17 W CC	0.7577	2.7	2.2	1	17	8
313	URETHRAL PROCEDURES, AGE >17 W/O CC	0.4420	1.2	1.1	1	2	1
314	URETHRAL PROCEDURES, AGE 0-17	0.8394	4.1	2.7	1	34	16
315	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.1092	9.0	6.1	1	38	23
316	RENAL FAILURE	1.7230	7.6	5.4	1	37	22
317	ADMIT FOR RENAL DIALYSIS	0.4825*	0.0	2.5	1	33	33
318	KIDNEY & URINARY TRACT NEOPLASMS W CC	1.3954	7.3	5.1	1	37	22
319	KIDNEY & URINARY TRACT NEOPLASMS W/O CC	0.7151	3.6	2.8	1	25	11
320	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC	0.9043	5.6	4.7	1	27	14
321	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	0.5548	3.8	3.3	1	15	9
322	KIDNEY & URINARY TRACT INFECTIONS AGE 0-17	0.5391	4.0	3.5	1	18	10
323	URINARY STONES W CC, &/OR ESW LITHOTRIPSY	0.7406	2.8	2.2	1	17	8
324	URINARY STONES W/O CC	0.3771	1.9	1.6	1	8	4
325	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC	0.7397	4.4	3.1	1	35	15
326	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC	0.5494	3.4	2.4	1	24	10
327	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17	0.5932	3.2	2.2	1	31	12
328	URETHRAL STRICTURE AGE >17 W CC	0.6143*	0.0	3.6	1	36	36
329	URETHRAL STRICTURE AGE >17 W/O CC	0.3978*	0.0	2.0	1	18	18
330	URETHRAL STRICTURE AGE 0-17	0.2754*	0.0	1.6	1	9	9
331	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	0.9496	5.2	3.8	1	35	17
332	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC	0.6217	3.1	2.3	1	23	10
333	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17	0.5706	3.6	2.7	1	25	11
334	MAJOR MALE PELVIC PROCEDURES W CC	2.1511	8.6	7.9	2	27	17
335	MAJOR MALE PELVIC PROCEDURES W/O CC	1.9110	7.3	7.0	2	17	12
336	TRANSURETHRAL PROSTATECTOMY W CC	1.0006	4.5	3.9	1	16	9
337	TRANSURETHRAL PROSTATECTOMY W/O CC	0.7228	3.3	3.1	1	9	6
338	TESTES PROCEDURES, FOR MALIGNANCY	1.0380	4.5	3.2	1	35	17
339	TESTES PROCEDURES, NON-MALIGNANCY AGE >17	0.6201	2.4	1.8	1	15	7
340	TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17	0.4831	1.5	1.3	1	4	3
341	PENIS PROCEDURES	1.0907	3.3	2.5	1	20	9
342	CIRCUMCISION AGE >17	0.5955*	0.0	2.5	1	35	35
343	CIRCUMCISION AGE 0-17	0.3742*	0.0	1.7	1	6	6
344	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY	1.3066	5.1	4.0	1	36	18
345	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY	1.0153	4.0	3.0	1	31	13
346	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC	0.7918	4.7	3.9	1	28	14
347	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	0.8334	3.8	2.7	1	34	14
348	BENIGN PROSTATIC HYPERTROPHY W CC	0.6267	3.4	2.8	1	18	9
349	BENIGN PROSTATIC HYPERTROPHY W/O CC	0.5891	2.5	2.2	1	10	6
350	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	0.6277	4.4	3.5	1	25	12

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD (A)	LONG STAY THRESHOLD (B)
351	STERILIZATION, MALE	0.3293*	0.0	1.3	1	5	5
352	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	0.3910	2.0	1.7	1	8	5
353	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY	2.2252	8.7	7.6	1	32	19
354	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC	1.3422	5.8	5.3	1	18	12
355	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC	1.0128	4.3	4.1	1	11	7
356	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	0.8619	4.0	3.6	1	12	8
357	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY	1.9868	7.9	6.9	1	31	18
358	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.1457	4.6	4.3	1	13	8
359	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	0.9265	3.8	3.6	1	9	6
360	VAGINA, CERVIX & VULVA PROCEDURES	0.7864	3.3	2.8	1	18	9
361	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	0.7217	3.1	2.3	1	19	9
362	ENDOSCOPIC TUBAL INTERRUPTION	0.4921*	0.0	1.4	1	5	5
363	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	0.6261	3.0	2.5	1	13	7
364	D&C, CONIZATION EXCEPT FOR MALIGNANCY	0.6232	2.1	1.7	1	10	5
365	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.1793	5.1	4.0	1	31	15
366	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	1.3328	7.3	4.2	1	36	21
367	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	0.5736	3.0	2.3	1	17	8
368	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	0.5717	3.7	3.3	1	14	8
369	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	0.3705	2.3	1.9	1	11	6
370	CESAREAN SECTION W CC	0.9965	4.8	4.4	1	14	9
371	CESAREAN SECTION W/O CC	0.7952	3.8	3.7	1	8	6
372	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	0.5536	3.1	2.6	1	12	7
373	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	0.3898	2.1	1.9	1	6	4
374	VAGINAL DELIVERY W STERILIZATION &/OR D&C	0.6577	2.4	2.3	1	6	4
375	VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	0.6660	2.7	2.3	1	13	7
376	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE	0.4644	3.2	2.5	1	17	8
377	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE	0.7611	2.9	2.2	1	20	9
378	ECTOPIC PREGNANCY	0.8255	3.3	2.9	1	12	7
379	THREATENED ABORTION	0.3916	3.0	2.1	1	19	8
380	ABORTION W/O D&C	0.3661	1.9	1.5	1	8	4
381	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	0.4315	1.4	1.3	1	4	3
382	FALSE LABOR	0.1730	1.4	1.2	1	4	2
383	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS	0.3654	3.1	2.5	1	17	8
384	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	0.3445	2.6	1.9	1	16	7
385	NO LONGER VALID	-	-	-	-	-	
386	NO LONGER VALID	-	-	-	-	-	
387	NO LONGER VALID	-	-	-	-	-	
388	NO LONGER VALID	-	-	-	-	-	
389	NO LONGER VALID	-	-	-	-	-	
390	NO LONGER VALID	-	-	-	-	-	
391	NORMAL NEWBORN	0.1179	2.2	2.0	1	7	4
392	SPLENECTOMY AGE >17	2.9288	9.5	7.6	1	39	24
393	SPLENECTOMY AGE 0-17	2.7953	7.4	6.4	1	25	15
394	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS	1.0895	4.1	2.9	1	34	14
395	RED BLOOD CELL DISORDERS AGE >17	0.9670	5.6	4.0	1	36	19
396	RED BLOOD CELL DISORDERS AGE 0-17	0.7395	4.3	3.3	1	30	13
397	COAGULATION DISORDERS	1.0908	4.5	3.3	1	33	14
398	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	1.3513	6.7	5.4	1	37	19
399	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	0.6055	4.2	3.4	1	25	12
400	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	2.9387	10.5	7.1	1	39	24

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD (A)	LONG STAY THRESHOLD (B)
401	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	3.0478	11.1	6.8	1	38	23
402	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC	1.1750	4.9	3.7	1	35	16
403	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	2.5439	9.9	6.5	1	38	23
404	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	1.0780	6.0	4.0	1	36	21
405	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17	2.1888	7.9	4.8	1	36	21
406	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC	3.3875	12.0	8.7	1	40	25
407	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC	1.6943	5.3	4.5	1	28	14
408	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC	1.7757	7.5	4.4	1	36	21
409	RADIOTHERAPY	0.8842	4.5	3.0	1	35	14
410	CHEMOTHERAPY	0.7675	3.2	2.6	1	17	9
411	HISTORY OF MALIGNANCY W/O ENDOSCOPY	0.4569*	0.0	2.6	1	33	33
412	HISTORY OF MALIGNANCY W ENDOSCOPY	0.4216*	0.0	2.1	1	21	21
413	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC	1.7388	9.7	6.5	1	38	23
414	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	1.1116	7.5	4.3	1	36	21
415	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	3.5975	13.0	9.0	1	41	26
416	SEPTICEMIA AGE >17	2.1040	8.8	6.7	1	38	23
417	SEPTICEMIA AGE 0-17	0.9116	5.3	4.1	1	33	16
418	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	0.9613	6.8	5.1	1	37	20
419	FEVER OF UNKNOWN ORIGIN AGE >17 W CC	1.1301	6.0	4.9	1	35	17
420	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	0.7584	4.9	4.0	1	25	13
421	VIRAL ILLNESS AGE >17	0.6065	3.7	3.0	1	22	10
422	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17	0.4764	3.2	2.8	1	14	8
423	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.3854	7.3	5.0	1	37	22
424	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	2.1036	18.7	11.6	1	43	28
425	ACUTE ADJUST REACT & DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION	1.1689	12.6	7.1	1	39	24
426	DEPRESSIVE NEUROSES	1.3147	14.5	9.4	1	41	26
427	NEUROSES EXCEPT DEPRESSIVE	1.2962	13.7	7.4	1	39	24
428	DISORDERS OF PERSONALITY & IMPULSE CONTROL	1.4404	14.7	9.5	1	41	26
429	ORGANIC DISTURBANCES & MENTAL RETARDATION	1.6383	31.7	16.9	1	48	33
430	PSYCHOSES	1.4076	13.5	9.6	1	41	26
431	CHILDHOOD MENTAL DISORDERS	1.5098	19.6	14.3	1	46	31
432	OTHER MENTAL DISORDER DIAGNOSES	1.7747	18.6	12.5	1	44	29
433	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	0.5857	7.8	4.7	1	36	21
434	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W CC	1.1623	10.8	6.8	1	38	23
435	NO LONGER VALID	-	-	-	-	-	-
436	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY	1.4423	24.7	20.4	2	52	37
437	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY	1.5740	21.0	17.8	2	49	34
438	NO LONGER VALID	-	-	-	-	-	-
439	SKIN GRAFTS FOR INJURIES	1.3119	6.3	3.5	1	35	20
440	WOUND DEBRIDEMENTS FOR INJURIES	1.4970	6.4	4.2	1	36	21
441	HAND PROCEDURES FOR INJURIES	1.1807	3.7	2.7	1	33	13
442	OTHER O.R. PROCEDURES FOR INJURIES W CC	2.4382	8.1	5.1	1	37	22
443	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	0.9308	3.4	2.4	1	26	11
444	TRAUMATIC INJURY AGE >17 W CC	0.9458	5.8	4.0	1	36	19
445	TRAUMATIC INJURY AGE >17 W/O CC	0.6810	4.5	2.8	1	34	15
446	TRAUMATIC INJURY AGE 0-17	0.5283	4.1	2.4	1	34	14
447	ALLERGIC REACTIONS AGE >17	0.3813	2.0	1.6	1	10	5
448	ALLERGIC REACTIONS AGE 0-17	0.4359	2.4	2.1	1	12	6
449	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC	0.8015	4.0	2.7	1	33	13
450	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	0.4315	2.2	1.7	1	11	5

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451	POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17	0.4397	2.4	1.6	1	13	6
452	COMPLICATIONS OF TREATMENT W CC	1.1554	5.3	3.6	1	35	18
453	COMPLICATIONS OF TREATMENT W/O CC	0.5607	3.4	2.4	1	25	11
454	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC	1.2708	4.7	2.2	1	34	15
455	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC	0.3568	2.2	1.5	1	10	5
456	BURNS, TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	2.0198*	0.0	5.6	1	38	38
457	EXTENSIVE BURNS W/O O.R. PROCEDURE	1.6731*	0.0	3.0	1	35	35
458	NON-EXTENSIVE BURNS W SKIN GRAFT	2.6214	13.6	9.1	1	41	26
459	NON-EXTENSIVE BURNS W WOUND DEBRIDEMENT OR OTHER O.R. PROC	1.9733	10.7	5.9	1	37	22
460	NON-EXTENSIVE BURNS W/O O.R. PROCEDURE	0.9958	5.9	4.0	1	35	20
461	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES	1.6991	8.1	3.4	1	35	20
462	REHABILITATION	2.4258	19.1	11.7	1	43	28
463	SIGNS & SYMPTOMS W CC	0.6697	3.9	3.0	1	26	12
464	SIGNS & SYMPTOMS W/O CC	0.5868	3.3	2.5	1	21	10
465	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.3706*	0.0	1.9	1	19	19
466	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.6319	3.4	2.1	1	26	10
467	OTHER FACTORS INFLUENCING HEALTH STATUS	0.5686	3.6	2.2	1	25	10
468	EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	2.4704	9.1	5.2	1	37	22
469	PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	-	-	-	-	-	
470	UNGROUPABLE	-	-	-	-	-	
471	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY	4.6514	11.1	10.3	1	32	21
472	EXTENSIVE BURNS W O.R. PROCEDURE	13.9563*	0.0	22.8	1	55	55
473	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	5.1297	19.7	11.0	1	42	27
474	NO LONGER VALID	-	-	-	-	-	
475	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	4.6974	11.6	8.2	1	40	25
476	PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	2.0353	10.1	6.8	1	38	23
477	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.4125	6.4	3.4	1	35	20
478	OTHER VASCULAR PROCEDURES W CC	2.9754	8.7	6.5	1	38	23
479	OTHER VASCULAR PROCEDURES W/O CC	1.6712	4.5	3.6	1	30	14
480	LIVER TRANSPLANT	-	-	-	-	-	
481	BONE MARROW TRANSPLANT	15.2890*	0.0	37.8	1	70	70
482	TRACHEOSTOMY W MOUTH, LARYNX OR PHARYNX DISORDER	3.6732	12.6	10.6	1	42	27
483	TRACHEOSTOMY EXCEPT FOR MOUTH, LARYNX OR PHARYNX DISORDER	17.8402	37.2	26.0	1	58	43
484	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	8.0123	16.8	12.6	1	44	29
485	LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT T	6.0918	20.4	17.2	2	49	34
486	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA	5.5140	15.3	11.3	1	43	28
487	OTHER MULTIPLE SIGNIFICANT TRAUMA	2.8883	10.2	6.9	1	38	23
488	HIV W EXTENSIVE O.R. PROCEDURE	4.3106*	0.0	17.0	1	49	49
489	HIV W MAJOR RELATED CONDITION	2.9947	11.4	8.2	1	40	25
490	HIV W OR W/O OTHER RELATED CONDITION	1.7151	8.6	4.3	1	36	21
600	NEONATE, DIED W/IN ONE DAY OF BIRTH	0.5080	1.0	1.0	1	1	1
601	NEONATE, TRANSFERRED <5 DAYS OLD	0.3409	2.0	1.7	1	8	4
602	NEONATE, BIRTHWT <750G, DISCHARGED ALIVE	8.4826	22.3	6.4	1	23	23
603	NEONATE, BIRTHWT <750G, DIED	10.3975	13.3	7.1	1	24	24
604	NEONATE, BIRTHWT 750-999G, DISCHARGED ALIVE	13.8088	42.6	19.7	1	36	36
605	NEONATE, BIRTHWT 750-999G, DIED	3.1320	4.7	3.8	1	16	16
606	NEONATE, BIRTHWT 1000-1499G, W SIGNIF OR PROC, DISCHARGED ALIVE	12.1745	46.4	42.2	10	59	59
607	NEONATE, BIRTHWT 1000-1499G, W/O SIGNIF OR PROC, DISCHARGED ALIV	7.1115	33.9	25.5	1	42	42
608	NEONATE, BIRTHWT 1000-1499G, DIED	6.9653	9.3	6.5	1	23	23
609	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W MULT MAJOR PROB	16.2156	36.5	21.5	1	38	38

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD (A)	LONG STAY THRESHOLD (B)
610	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W/O MULT MAJOR PR	6.7751	51.0	51.0	50	51	51
611	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MULT MAJOR PR	6.3022	23.0	15.9	1	32	32
612	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MAJOR PROB	3.8956	20.7	17.4	2	34	34
613	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MINOR PROB	2.4108	15.3	12.6	1	29	29
614	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W OTHER PROB	1.3786	11.6	9.3	1	26	26
615	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	6.2854	19.4	14.5	1	31	31
616	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W/O MULT MAJOR PR	6.8156	26.6	22.7	3	39	39
617	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MULT MAJOR PR	3.4560	15.2	11.7	1	28	28
618	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MAJOR PROB	2.2751	9.4	6.7	1	23	23
619	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MINOR PROB	1.4142	8.5	6.6	1	23	23
620	NO LONGER VALID	-	-	-	-	-	
621	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.4037	4.4	3.6	1	12	12
622	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	7.2960	17.6	12.9	1	29	29
623	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W/O MULT MAJOR PROB	3.5562	10.6	6.1	1	23	23
624	NEONATE, BIRTHWT >2499G, W MINOR ABDOM PROCEDURE	0.8414	3.3	2.4	1	9	9
625	NO LONGER VALID	-	-	-	-	-	
626	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MULT MAJOR PROB	3.3615	10.6	6.5	1	23	23
627	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MAJOR PROB	0.9314	5.1	3.7	1	16	16
628	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MINOR PROB	0.5236	4.1	3.3	1	11	11
629	NO LONGER VALID	-	-	-	-	-	
630	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.1725	2.6	2.3	1	5	5
631	BPD AND OTH CHRONIC RESPIRATORY DISEASES ARISING IN PERINATAL PE	4.8266	15.9	10.2	1	27	27
632	OTHER RESPIRATORY PROBLEMS AFTER BIRTH	0.7864	3.9	2.9	1	14	14
633	MULTIPLE, OTHER AND UNSPECIFIED CONGENITAL ANOMALIES, W CC	0.9050	5.0	5.0	4	5	5
634	MULTIPLE, OTHER AND UNSPECIFIED CONGENITAL ANOMALIES, W/O CC	0.3323	2.0	2.0	1	2	2
635	NEONATAL AFTERCARE FOR WEIGHT GAIN	0.7666	11.2	7.6	1	24	24
636	NEONATAL DIAGNOSIS, AGE > 28 DAYS	7.0898	17.1	9.6	1	26	26
900	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE <= 21 W/O	1.5956	20.3	12.9	1	44	29
901	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE > 21 W/O	1.2383	14.1	9.0	1	1	26

Notes: (1) Long Stay Threshold "B" is used for children's hospital discharges.
(2) * = low volume DRG. The Medicare weight is used for these DRGs.

[FR Doc. 91-26116 Filed 10-29-91; 8:45 am]

BILLING CODE 3810-01-C

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 1992 Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of updated mental health per diem rates.

SUMMARY: This notice provides for the updating of hospital-specific per diem rates for high volume providers and regional per diem rates for low volume providers; the updated cap per diem for high volume providers; and the beneficiary per diem cost-share amount for low volume providers to be used for FY 1992 under the CHAMPUS Mental Health Per Diem Payment System.

EFFECTIVE DATE: The rates contained in this notice are effective for services occurring on or after October 1, 1991.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Stan Regensberg, Office of Program Development, OCHAMPUS, telephone (303) 361-3572.

To obtain copies of this document, see the "ADDRESSES" section above. Questions regarding payment of specific claims under the CHAMPUS Mental Health Per Diem Payment System should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on pages 34285 through 34294 on September 6, 1988, set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. Included in this final rule were provisions for updating reimbursement rates for each federal fiscal year. As stated in the final rule, each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System. In the **Federal Register** of August 30, 1991, on page 36078, Medicare has recommended to Congress an update factor of 4.7 percent for federal fiscal year 1992 for hospitals and units excluded from the prospective payment system. CHAMPUS will adopt this update factor for FY 1992 assuming that Congress includes it in the budget for FY 1992 and it is approved by the President. If some other percent is approved by the President, the percentage approved by the President will become the update factor for FY 1992 used by CHAMPUS to update the reimbursement rates under the CHAMPUS Mental Health Per Diem Payment System. Hospitals and units with hospital-specific rates (hospitals and units with high CHAMPUS volume) will have their FY 1991 CHAMPUS per diem rates updated by 4.7 percent for FY 1992, unless the President approves another update factor for FY 1992.

The following reflect an update of 4.7 percent. Should the President approve a different update factor for FY 1992, CHAMPUS will issue a subsequent notice with updated reimbursement rates based on that approved update factor.

Regional Specific Rates for Psychiatric Hospitals and Units With Low Champus Volume

United States Census Region	Rate@
Northeast:	
New England	$455
Mid-Atlantic	$435
Midwest:	
East North Central	$377
West North Central	$356
South:	
South Atlantic	$450
East South Central	$487
West South Central	$409
West:	
Mountain	$408
Pacific	$482

@The wage portion of the rate, subject to the area wage adjustment, is 71.40 percent.

Beneficiary Cost-Share

Beneficiary cost-share (other than dependents of active duty members) for care paid on the basis of a regional per diem rate is the lower of $120 per day or 25 percent of the hospital billed charges effective for services rendered on or after October 1, 1991.

Cap Amount

Cap amount for hospitals and units with high CHAMPUS volume is $672 per day.

Dated: October 25, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26119 Filed 10-29-91; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday December 3, 1991; Tuesday, December 10, 1991; Tuesday, December 17, 1991; Tuesday, December 24, 1991; and Tuesday, December 31, 1991, at 10 a.m. in room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20301.

Dated: October 23, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26115 Filed 10-29-91; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College.

ACTION: Notice of meeting.

SUMMARY: Open to the public on November 15, 1991, starting at 9 a.m. in room 2212 of the Rayburn House Office Building.

This panel, which is reviewing defense procurement laws under the provisions of section 800, Public Law 101-510, invites any interested individuals or organizations to address their concerns to the members during their morning working session on that date.

A speaker's roster is being compiled and anyone wishing to reserve a place on it is requested to contact Major Jean Kopala, 703-355-2665.

Dated: October 25, 1991.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26117 Filed 10-29-91; 8:45 am]

BILLING CODE 3810-01-M

Defense Logistics Agency

Privacy Act of 1974; Amend a Record System

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend one existing record system to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: The proposed action will be effective without further notice on November 29, 1991, unless comments are received which would result in a contrary determination.

ADDRESSES: Ms. Susan Salus, DLA-XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304-6100. Telephone (202) 274-6234 or Autovon 284-6234.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, as amended, have been published in the Federal Register as follows:

50 FR 22897, May 29, 1985 (DoD Compilation, changes follow)
50 FR 51898, Dec. 20, 1985
51 FR 27443, Jul. 31, 1986
51 FR 30104, Aug. 22; 1986
52 FR 35304, Sep. 18, 1987
52 FR 37495, Oct. 7, 1987
53 FR 04442, Feb. 16, 1988
53 FR 09965, Mar. 28, 1988
53 FR 21511, Jun. 8, 1988
53 FR 26105, Jul. 11, 1988
53 FR 32091, Aug. 23, 1988
53 FR 39129, Oct. 5, 1988
53 FR 44937, Nov. 7, 1988
53 FR 48708, Dec. 2, 1988
54 FR 11997, Mar. 23, 1989
55 FR 21918, May 30, 1990 (DLA Address Directory)
55 FR 32284, Aug. 8, 1990
55 FR 34050, Aug. 21, 1990
55 FR 42755, Oct. 23, 1990
55 FR 53178, Dec. 27, 1990
56 FR 5806, Feb. 13, 1991
56 FR 8987, Mar. 4, 1991
56 FR 11207, Mar. 15, 1991
56 FR 19838, Apr. 30, 1991
56 FR 35852, Jul. 29, 1991

The specific changes to the record system being amended are set forth below, followed by the system notice, as amended, in its entirety. This notice is not within the purview of subsection (r) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), which requires the submission of an altered system report.

Dated: October 25, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

System name:

Defense Manpower Data Center Data Base (56 FR 35852, July 29, 1991).

Changes:

* * * * *

Categories of individuals covered by the system:

In the fourth paragraph, delete "civilian employees of the Federal Government;".

Categories of records covered by the system:

Delete the eighth paragraph and replace with "Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract portion of the OPM/GOVT-1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extracts from OPM/CENTRAL-1, Civil Service Retirement and Insurance Records, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching"

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add a new paragraph after the twenty-fourth paragraph "To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility."

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93920-5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93920-5000.

Decentralized segments—Portions of this file may be maintained by the military and non-appropriated fund personnel and finance centers of the military services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state

employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veterans Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veterans Affairs or who are covered by a Department of Veterans Affairs' insurance or benefit program; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All U.S. Postal Service employees.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; and home and work addresses.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax ID of providers or potential providers of care.

Selective Service System registration data.

Department of Veterans Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

U.S. Postal Service employment/personnel records containing Social Security Number, name, salary, home and work address. U.S. Postal Service records will be maintained on a temporary basis for approved computer matching between the U.S. Postal Service and DoD. Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT-1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent) annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Appointment Powers and Duties; 10 U.S.C. 2358; Research Projects; Pub. L. 95–452, as amended (Inspector General Act of 1978); and Executive Order 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, and to collect debts owed to the United States Government and state and local governments.

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Veterans Affairs (DVA), Statistical Policy and Research Office, Office of Information Management and Statistics, DVA Management Sciences Division to provide military personnel employment and pay data for the purpose of selection samples for surveys asking veterans about the use of veteran benefits and satisfaction with DVA services, and to validate eligibility for DVA benefits; and to analyze the cost to the individual of military service under the Veteran's Group Life Insurance program.

To the Department of Veterans Affairs (DVA) to provide identifying military personnel data to the DVA and its contractor, the Prudential Insurance Company, for the purpose of notifying members of the Individual Ready Reserve (IRR) of their right to apply for Veteran's Group Life Insurance coverage.

To the Department of Veterans Affairs (DVA) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

1. Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program (38 U.S.C. 3104(c), 3006–3008). The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment.

2. Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 106—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both

agencies by the law require that data be exchanged in administering the programs.

3. Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 684) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

4. Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law (38 U.S.C. 3104(c)) requires recoupment of severance payments before DVA disability compensation can be paid.

5. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 3104(c), 3006–3008). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

To the Office of Personnel Management (OPM) consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

To the Office of Personnel Management (OPM) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

1. Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

2. Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

3. Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the "guaranteed minimum" disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

4. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

To the Department of Health and Human Services (DHHS), Office of the Inspector General, for the purpose of identification and investigation of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program. To the Office of Child Support Enforcement, DHHS, pursuant to 42 U.S.C. 653 and Public Law 94–505, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

To the Social Security Administration (SSA), Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

To the Bureau of Supplemental Security Income, SSA, to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SS1) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SS1 applicant from independent or collateral sources and obtain additional information as necessary before making SS1 determinations of eligibility, payment amounts or adjustments thereto.

To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

To DoD Civilian Contractors for the purpose of performing research on manpower problems for statistical analyses.

To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states.

To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their

employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397.

To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the United States Government under the Debt Collection Act of 1982 (Pub. L. 97–365).

To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

1. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

2. Exchanging personnel and financial information on certain military retirees who are also civilian employees of, the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the DLA compilation of record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center—Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent. U.S. Postal Service records are temporary and are destroyed after the computer matching program results are verified.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, "Personal Privacy and Rights of Individuals Regarding Their Personal Records"; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veterans Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 91–26120 Filed 10–29–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Industrial Associates Program Announcement

By this notice the U.S. Department of Energy (DOE) is advising industry of an

Industrial Associates Program at the DOE Savannah River Site (SRS), sponsored by DOE and its management and operating contractor, Westinghouse Savannah River Company. This program is part of DOE's Technology Transfer initiative and is intended to increase industry awareness of the availability for licensing technologies developed by DOE contractors. DOE reguests that potential participants write to us stating their particular area of interest, the preferred dates from your schedule, and a vita of the individual who would like to participate. Participants may spend 5 days at the site. Time will be divided between the Technology Transfer Office to review available technologies and the area of technical interest. There is no cost to be an industrial associate. Only U.S. citizens may participate.

The above information can be submitted at any time through September 30, 1992, to the following address: Caroline Teelon, Westinghouse Savannah River Company, Building 770–A, P.O. Box 616, Aiken, South Carolina 29802, telephone (803) 725–5540.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, DOE Field Office, Savannah River, Contracts and Property Division, P.O. Box A, Aiken, South Carolina 29802, Telephone (803) 725–2191.

Peter M. Hekman, Jr.

Manager, Savannah River Field Office.

[FR Doc. 91–26150 Filed 10–29–91; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; Intent To Award a Grant to the Workplace Health Fund

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(2), it is making a financial assistance award based on an unsolicited application satisfying the criteria of 10 CFR 600.14(e)(1) under Grant Number DE–FG01–92EH89177 to the Workplace Health Fund to support "A Proposal to Expand Research Opportunities on Cancer and Ionizing Radiation."

SCOPE: This grant to the Workplace Health Fund, in conjunction with the Collegium Ramazzini, will aid in providing funding in the amount of $61,040 to contribute to the support of two international meetings to review the availability of data, and for a workshop to examine the feasibility of conducting long-term health studies of uranium mines in Eastern Europe. The grant funds will be used to conduct the first meeting on November 14–16, 1991, in Bonn, Germany, which will be a review of data acquisition and safeguarding now underway relative to populations exposed to radiation from 1946 to the present. The second meeting on November 21, 1991, in Capri, Italy will be a "Workshop on New Investigation of Health Effects of Radiation Exposure." A third phase, involving an analysis of the completed feasibility studies, does not currently have a completed budget as it is dependent on the outcome of the first two meetings.

The purpose of this proposal relates directly to the mission of the DOE Office of Health because it concerns the potential collection of new data on a large cohort of uranium mines and thus new data relevant to the health risks of radon exposure. DOE support of this project will result in new important scientific contacts abroad and will provide DOE the opportunity to participate in long-term studies of the East German and Czech populations. Until recent political changes in Eastern Europe this data was unavailable.

ELIGIBILITY: Based on receipt of an unsolicited proposal, eligibility for this award is being limited to the Workplace Health Fund/Collegium Ramazzini, a non-profit professional society with high qualifications in this specialized scientific field. The Collegium Ramazzini is a prominent international organization composed of eminent scientists from thirty countries. Member of the Collegium have vast experience in many occupational-related issues. The principal investigator for the Commission on Radiation of the Collegium Ramazzini is a respected scientist with a world-wide reputation for his work on asbestos exposure and other occupational-related illness. Initial work of the Commission has been supported by the Workplace Health Fund and a grant from the German Marshall Fund of the United States.

It has been determined that this project has high scientific merit, representing a proposal this is innovative and offers a unique method of gaining access to important epidemiologic data to be used for Comprehensive Epidemiologic Data Resource (CEDR).

The term of the grant is for twelve months from the effective data of award.

FOR FURTHER INFORMATION CONTACT: Department of Energy, Office of Placement and Administration, Attn: Lisa Tillman, PR–322.1, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 91–26151 Filed 10–29–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. RP87–30–039 and RP90–69–010]

Colorado Interstate Gas Co.; Filing To Implement Rate Settlement

October 22, 1991.

Take notice that Colorado Interstate Gas Company (CIG) on October 15, 1991 tendered for filing tariff sheets listed in appendix A attached to the filing to place settlement rates approved by Commission orders issued August 5 and September 16, 1991, in effect as of April 1, 1991, subject to CIG's subsequent PGA changes approved by the Commission and made effective on July 1 and on October 1, 1991 by Commission orders issued June 24, 1991 and September 30, 1991 in Docket Nos. TQ91–3–32–000 and TA92–1–32–001, respectively.

CIG states that the filing is being made in compliance with Commission orders issued on August 5 and September 16, 1991, respectively.

CIG states that effective November 1, 1991, CIG will commence billing the settlement rates reflected in Appendix A of its filing, and will calculate refunds pursuant to Article 8.2 of the settlement for collections made between April 1, 1991, and October 31, 1991. CIG also states that it will make refunds to its jurisdictional customers by December 15, 1991, and will file a refund report with the Commission by January 14, 1992.

CIG states that copies of the filing are being served upon CIG's jurisdictional customers and public bodies.

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 October 29, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26063 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-1-22-001]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 23, 1991.

Take notice that CNG Transmission Corporation ("CNG"), on October 17, 1991, pursuant to Section 4 of the Natural Gas Act ("NGA") and Part 154 of the Commission's regulations filed the following revised tariff sheets to Volume No. 1 of CNG's FERC Gas Tariff:

Substitute Eleventh Revised Sheet No. 31
Substitute Sixth Revised Sheet No. 34
Alternate Substitute Eleventh Revised Sheet No. 31
Alternate Substitute Sixth Revised Sheet No. 34

The proposed effective date for these tariff sheets is October 1, 1991.

CNG states that the purpose of the filing is to update CNG's Annual Charge Adjustment filing in Docket No. TM92-1-22-000 to reflect rate changes ordered by the Commission in CNG's annual PGA proceeding in docket No. TA91-1-22-000. CNG states that its primary and alternate tariff sheets parallel the primary and alternate tariff sheets filed on September 27, 1991, as CNG's PGA compliance filing.

CNG states that copies of the filing were served upon CNG's 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 Procedures, 18 CFR 385.211. All such protests should be filed on or before October 30, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26064 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-2-23-001]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 23, 1991

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on October 17, 1991 certain substitute tariff sheets included in appendix A attached to the filing. Such sheets are proposed to be effective November 1, 1991.

ESNG states that such tariff sheets are being filed pursuant to § 154.308 of the Commission's regulations and § 21.2 and 21.4 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. ESNG is filing the above referenced tariff sheets in order to rectify an error which resulted in ESNG understating its commodity charge in its annual PGA filing. In its annual PGA filing ESNG calculated a current adjustment of $0.649 per dt to its commodity charge under rate schedules CD-1, CD-E, G-1 and PS-1, respectively. In calculating the cumulative adjustment ESNG inadvertently used as its starting point the cumulative balance as stated in its interim PGA filing in Docket No. TF91-4-23-002, instead of the proper cumulative balance as reflected in its last regularly scheduled PGA filing in Docket No. TQ91-3-23-002. The impact on the affected commodity charges is an understatement of $0.0692 per dt.

ESNG states that copies of the filing have been served upon its jurisdictional 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 388.211. All such protests should be filed on or before October 30, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26065 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA91-1-24-000, TA91-1-24-001, TA91-1-24-002 and TA91-1-24-003]

Equitrans, Inc.; Technical Conference

October 23, 1991.

Pursuant to the Commission's order, issued on September 27, 1991, a technical conference will be held to resolve the issues raised in the above-captioned proceeding. The conference will be held on Thursday, November 7, 1991 at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26066 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-166-000]

Northwest Pipeline Corp.; Informal Settlement Conference

October 23, 1991.

Take notice that an informal settlement conference will be convened in this proceeding at 10 a.m. on Wednesday, December 4, 1991, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined in 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214.

For additional information, contact Marc G. Denkinger at (202) 208-2215 or Joan Dreskin at (202) 208-0738.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26078 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-68-011]

Penn-York Energy Corp.; Compliance Filing

October 23, 1991.

Take notice that Penn-York Energy Corporation (Penn-York), on October 15, 1991 tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 5
Third Revised Sheet No. 8

Second Revised Sheet No. 14
Third Revised Sheet No. 17

Penn-York states that the filing is being made in compliance with Order Paragraph (C) of the Commission's "Order Granting and Denying Rehearing Requests" issued on October 3, 1991 in the above-referenced proceeding. Penn-York states that it is submitting the compliance filing under protest.

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 October 30, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26067 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-171-001]

Southern Natural Gas Co.; Refund

October 23, 1991.

Take notice that on September 30, 1991, Southern Natural Gas Company (Southern), tendered for filing its refund report. Southern states that the refund report has been filed as directed in the August 1, 1991 order of the Commission in Docket No. RP91-171-000.

Southern also states that in accordance with a refund plan approved by the Commission on August 1, 1991, it has made direct refunds to Florida Gas Transmission Company and South Georgia Natural Gas Company of $185,675.02 in principal and interest.

Southern states that a complete copy of the filing has been served upon all parties listed on the official service list.

Any person desiring to protect 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 October 30, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26068 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. IS91-24-000, et al.]

Tecumseh Pipe Line Co.; Informal Settlement Conference

October 23, 1991.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding on October 29, 1991, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 North Capitol Street, NE., Washington, DC.

Participants, as defined by 18 CFR 385.102(b), are invited to attend; attendance is limited to those parties which have been granted intervenor status.

For additional information please contact Michael D. Cotleur, (202) 208-1076, or Russell Mamone, (202) 208-0744.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26069 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP-83-67-000, RP88-81-000, RP88-221-000, RP90-119-001, RP91-4-000, and RP91-119-000 (Phase I/Rates)]

Texas Eastern Transmission Corporation; Informal Settlement Conference

October 23, 1991.

Take notice that the conference scheduled to be convened in this proceeding on October 29-30, 1991, has been rescheduled for November 25-26, 1991, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Dennis H. Melvin (202) 208-0042 or Arnold H. Meltz (202) 208-0737.

Lois D. Cashell,

Secretary.

[FR Doc. 91-26070 Filed 10-29-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Coal Council.

Date and Time: Wednesday, November 20, 1991, 9:30 a.m. to 12 Noon.

Place: Ritz-Carlton Pentagon City 1250 South Hayes Street Arlington, VA.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, telephone: 202/586-3867.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

TENTATIVE AGENDA

—Call to order by C. Carter Grinstead, Jr., Chairman of the National Coal Council.
—Remarks by Chairman Grinstead.
—Remarks by the Honorable James D. Watkins, Secretary of Energy, Department of Energy. (Invited)
—Report of the Finance Committee.
—Report of the Coal Policy Committee.
—Discussion of any other business properly brought before the Council.
—Public comment—10-minute rule.
—Adjournment.

Public Participation

The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to nake oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript

Available for public review and copying at the Public Reading Room, room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m, Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 24, 1991.

Marcia Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 91-26158 Filed 10-29-91; 8:45 am]

BILLING CODE 6450-01-M

Coal Policy Committee; National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Coal Policy Committee of the National Coal Council (NCC).

Date and Time: Tuesday, November 19, 1991, 9 a.m. to 11 a.m.

Place: Ritz-Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–1), Washington, DC 20585, telephone: 202/586–3867.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the Meeting: To discuss current studies and new study topics.

Tentative Agenda

—Call to order by William Wahl, Chairman of the Coal Policy Committee
—Remarks by the Honorable Linda G. Stuntz, Acting Assistant Secretary, Office of Fossil Energy, Department of Energy.
—Briefings by Department of Energy officials on various energy issues.
—Discussion of current studies.
—Discussion of new studies.
—Discussion of any other business to be properly brought before the Committee.
—Public comment—10-minute rule.
—Adjournment.

Public Participation

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript

Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 24, 1991.

Marcia Morris,

Deputy Advisory Committee, Management Officer.

[FR Doc. 91–26159 Filed 10–29–91; 8:45 am]

BILLING CODE 6450–01–M

Enron Gas Marketing Inc.; Application for Blanket Authorization To Import and Export Natural Gas

AGENCY: Department of Energy Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 9, 1991, of an application filed by Enron Gas Marketing, Inc. (EGM), requesting blanket authorization to import from Canada and Mexico up to 450 Bcf of natural gas annually, and export to Mexico and Canada up to 450 Bcf of natural gas annually, over a two-year term beginning on January 1, 1992, the date its existing blanket import and export authority expires. The proposed imports and exports would take place at any point on the international border where existing pipeline facilities are located. No new pipeline construction would be involved.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., Eastern time, November 29, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Peter Lagiovane, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8116

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: EGM, a Delaware corporation with its principal place of business in Houston, Texas, is a marketer of natural gas, selling an average of 1.7 Bcf per day to customers in about thirty states and Mexico. It is also a wholly owned subsidiary of Enron Corp. and as such is affiliated with four major interstate pipelines: Northern Natural Gas Company, Northern Border Pipeline Company, Transwestern Pipeline Company and Florida Gas Transmission Company. Additionally, EGM is affiliated with Houston Pipe Line Company, a Texas intrastate pipeline. EGM is currently authorized by DOE/FE Opinion and Order No. 360, as amended by Order No. 360–A, to import up to 600 Bcf of natural gas from Canada and to export up to 600 Bcf of natural gas to Mexico through December 1991. See, 1 FE Para 70,275 and 1 FE Para 70,276. During the past two years EGM has imported and exported a combined total of about 2 Bcf.

EGM requests authorization to import and export this gas in order to make direct sales to pipelines, local distribution companies, cogeneration facilities, industrial end-users, as well as other marketers. The identity of EGM's suppliers, purchasers, and the specifics of each sale are not known at this time, but the contractual arrangements, including the price paid for the gas, would be based on market conditions. If its application is approved, EGM said that it would comply with DOE's quarterly reporting provisions contained in previous blanket authorizations.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose the application should comment in their responses on these issues. EGM asserts that its proposal is in the public interest because it would increase competition in the North American energy market and is consistent with the 1988 United States-Canada Free Trade Agreement and other Government-announced international trade policies. Parties opposing EGM's application bear the burden of overcoming these assertions.

All parties should be aware that if DOE approves this requested blanket import and export of up to 450 Bcf of natural gas annually, it may designate a total authorized volume for the two-year term rather than an annual limit in order to provide EGM with maximum flexibility of operation.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No fina.

decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notice of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notice of intervention, request for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of EGM's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 23, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–26512 Filed 10–29–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–56–NG]

Order Granting Blanket Authorization To Export Natural Gas to Canada and Mexico; MidCon Marketing Corp.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Canada and Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting MidCon Marketing Corporation blanket authorization to export up to a total of 300 Bcf of natural gas to Canada and Mexico over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 25, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–26153 Filed 10–29–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–39–NG]

Order Granting Long-Term Authorization To Import Natural Gas From Canada; the Montana Power Co.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy has issued an order authorizing The Montana Power Company (MPC) to import from Canadian-Montana Pipe Line Company (CMPL) up to 50,000 Mcf per day of Canadian natural gas for fifteen years. The gas would be imported at a point on the United States-Canada border near Whitlash, Montana (Aden, Alberta). The authorization replaces MPC's existing authority to import gas from CMPL which otherwise would have expired in December 1992.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–9478. The docket room is open between the hours of 8 am. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 23, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–26154 Filed 10–29–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–61–NG]

Application for Blanket Authorization To Import and Export Natural Gas From and to Canada; Northridge Petroleum Marketing U.S., Inc.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas from and to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on August 8, 1991, of an application filed by Northridge Petroleum Marketing U.S., Inc. (Northridge), requesting blanket authorization to import up to 200 Bcf of natural gas from Canada and to export up to 300 Bcf of natural gas to Canada over a two-year period beginning on December 5, 1991, through December 4, 1993. Northridge states that it will submit quarterly reports detailing each transaction and intends to use existing pipeline facilities in the U.S. to transport any imports or exports.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC, at the address listed below no later than 4:30 p.m., eastern time, November 29, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION: Frank Duchaine, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, FE- 53, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-8233.
Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 6E-042, GC-14, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: Northridge, a Colorado corporation with its principal place of business in Calgary, Alberta, Canada is a natural gas marketing company. It is a wholly owned subsidiary of Northridge Petroleum Marketing, Inc., a Canadian corporation. The applicant proposes to import Canadian natural gas on a short-term or spot-market basis for purchase by local distribution companies, electric utilities, interstate pipelines and industrial and commercial end-users. Northridge proposes to import gas for its own account or act as agent for Canadian suppliers and/or U.S. purchasers. The specific terms of each sale will be responsive to current market conditions for natural gas.

The applicant proposes to export natural gas either as a broker or agent on behalf of others or as an exporter on its own behalf. Northridge states that the specific terms of each export sale will be freely negotiated at arms-length and will be responsive to current market conditions.

The applicant was granted blanket import authority by DOE/FE Opinion and Order 339 (Order 339), 1 FE 70, 250, to import up to 200 Bcf of natural gas from Canada beginning on December 5, 1989, and ending December 4, 1991. Northridge was granted blanket export authority by DOE/FE Opinion and Order 443 (Order 443), 1 FE 70,373, to export up to 300 Bcf of gas from the United States to Canada over a two-year period beginning on the date of first delivery. No exports have been made under Order 443. The proposed import/export authorization would supersede the authorizations previously granted in Orders 339 and 443, and would place Northridge's import and export authorizations on a concurrent time frame.

The decision on Nothridge's application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing a natural gas export application, the domestic need for the natural gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. The applicant asserts that imports and exports made under the proposed arrangement will be competitive and otherwise consistent with DOE import and export policy. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northridge's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 23, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-26155 Filed 10-29-91; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-76-NG]

Suncor Inc.; Application for Blanket Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy; Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE)

gives notice of receipt on September 17, 1991, of an application filed by Suncor Inc. (Suncor) requesting blanket authorization to import from Canada up to 127.76 Bcf of natural gas over a two-year term beginning on January 1, 1992, the date its existing blanket import authority expires. The proposed imports would take place at any point on the international border where existing pipeline facilities are located. No new pipeline construction would be involved.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 pm., Eastern time, November 29, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–5O, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION: Peter Lagiovane, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–8116.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–0503.

SUPPLEMENTARY INFORMATION: Suncor, a Canadian corporation with its principal place of business in Toronto, Canada, is involved in the exploration for and the production and marketing of crude oil, natural gas, and petroleum products. Suncor is an affiliate of Sun Company, Inc., of Radnor, Pennsylvania, and Ontario Energy Resources Ltd., a corporation indirectly owned by the province of Ontario, Canada. Suncor is currently authorized by DOE/FE Opinion and Order No. 345, 1 FE Para. 70,264 (October 30, 1989), to import up to 54.76 Bcf of natural gas from Canada during the two year period ending December 31, 1991. Through June 30, 1991, Suncor had imported a total of approximately 19.53 Bcf.

Suncor requests authorization to import Canadian natural gas in order to make direct sales to local distribution companies, natural gas marketing firms, and industrial end-users, in the midwestern states, Pacific Northwest, and California. Suncor intends to use existing facilities of U.S. pipelines to transport its imported gas supplies and does not contemplate the construction of any new facilities. Accordingly, Suncor asserts that imports for which authorization is requested will have no significant impact on the environment. If its application is approved, Suncor stated that it would comply with DOE's quarterly reporting provisions contained in previous blanket authorizations.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Suncor asserts that its proposed import arrangements, as short-term or spot market transactions, necessarily will be competitive. If it cannot obtain competitively priced gas or adjust its sales price to meet the market price, it will have no customers to whom to sell the gas and no occasion to use the requested import authority. Further, Suncor asserts that, since its proposed sales of imported gas will be on a short-term or spot basis, Suncor's purchasers, all of whom have other actual or potential suppliers, will not become dependent on Suncor's suppliers. Therefore, the security of Suncor's source of supply is not an issue. Parties opposing Suncor's request for import authorization bear the burden of overcoming these assertions.

All parties should be aware that if DOE approves this requested blanket import, it may designate a total authorized volume for the two-year term with no daily limit in order to provide Suncor with maximum flexibility of operation.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notice of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notice of intervention, request for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Suncor's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 23, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-26156 Filed 10-29-91; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-78-NG]

Tenngasco Corp.; Application for Blanket Authorization to Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 26, 1991, of an application filed by Tenngasco Corporation (Tenngasco) requesting blanket authorization to import from Canada up to 200 Bcf of natural gas over a two-year term beginning on the date of first delivery after November 1, 1991, the date its existing blanket import authority expires. The proposed imports would take place at any point on the international border where existing pipeline facilities are located. No new pipeline construction would be involved.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 pm., Eastern time, November 29, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION: Peter Lagiovane, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6116.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Tenngasco, a Delaware corporation with its principal place of business in Houston, Texas, is a wholly-owned subsidiary of Tenneco Corporation. Tenngasco is a major U.S. marketer and broker of natural gas to interstate pipelines, intrastate pipelines, local distribution companies, and end users.

On May 6, 1985, the Administrator of the Economic Regulatory Administration authorized Tenngasco Exchange Corporation (TGX) and LHC Pipeline (LHC) to import up to 110 BCF of natural gas from Canada for a two year term beginning on the date of first delivery, 1 ERA ¶ 70,596 (1985). The first import under this authorization took place on November 2, 1989, making the import authority effective through November 1, 1991. On January 10, 1991, this import authority was transferred by DOE from TGX/LHC to Tenngasco, 1 FE ¶ 70,401 (1991). Since November 2, 1989, Tenngasco has imported a combined total under both authorities of approximately 9.67 Bcf.

Tenngasco requests approval to extend and increase its blanket import authorization in order to retain the flexibility needed to respond rapidly to changing conditions in the natural gas market. Tenngasco will sell its Canadian imports to a wide range of U.S. consumers including pipelines, distribution companies, industrial users, and electric utilities. Tenngasco intends to use existing facilities of U.S. pipelines to transport its imported gas supplies and does not contemplate the construction of any new facilities. Accordingly, Tenngasco asserts that imports for which authorization is requested will have no significant impact on the environment. If its application is approved, Tenngasco stated that it would comply with DOE' s quarterly reporting provisions contained in previous blanket authorizations.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Tenngasco asserts that its proposed import arrangements, as short-term or spot market transactions, necessarily will be competitive. Specific rates for each arrangement will be the product of arm's-length negotiation between Tenngasco, its Canadian suppliers, and Tenngasco's domestic customers. Terms such as take-or-pay or make-up provisions will be utilized only to the extent they are mutually agreed to by the parties in response to competitive market factors. Tenngasco also asserts that it will import gas from reliable Canadian sources such as Kangas Limited, Progas Limited, Shell Canada and Mobil Oil Canada. Parties opposing Tenngasco's request for import authorization bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notice of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notice of intervention, request for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate

why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 90.316.

A copy of Tenngasco's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 pm., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 23, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-26157 Filed 10-29-91; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-34-NG]

Order Granting Long Term Authorization To Import Canadian Natural Gas; TransCanada PipeLines Limited

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting long term authorization to import Canadian natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order authorizing TransCanada PipeLines Limited to import up to 98.35 Mcf per day of Canadian natural gas effective immediately through October 31, 2005.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 21, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-26149 Filed 10-29-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4027-1]

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 November 29,1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Underground Storage Tanks—Notification, Recordkeeping, and Reporting Requirements (ICR No. 1360.03). This is a renewal of an approved collection (OMB No. 2050-0068).

Abstract: Owners of underground storage tanks (UST) that contain regulated substances must notify their designated State or local agency of the existence of their tanks. Owners of new or replacement UST systems must notify their designated agency within 30 days of bringing a tank into use by submission of the federal notification form, or an approved alternate State notification form. Also, any person who sells a tank intended to be used in an UST system must advise the tank purchaser of the owner's notification requirements. UST owners and operators must maintain records on monitoring, cathodic protection, installation, release detection equipment calibration, maintenance, repairs, and closures. UST owners and operators must also report on suspected and confirmed releases; initial abatement; initial site characterization; free product removal; cleanup investigation; corrective action; and closure. State, local, and federal authorities use the information to verify statutory compliance and to enforce technical standards for USTs.

Burden Statement: The public reporting burden for this collection is estimated to average 3 hours per response, and 30 minutes per recordkeeper annually. This estimate includes all aspects of the information collection including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Owners and operators of underground storage tanks that contain regulated substances.

Estimated Number of Respondents: 1,838,000.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5,697,800 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 0270.27; Monitoring for 8 Volatile Organic Chemicals, MCLE'S and MCLS for Aldicarb, Aldicarb Sulfoxide, Aldicarb Sulfone, Pentachlo-Ophenol, and Barium; was approved 08/22/91; OMB # 2040-0090; expires 12/31/93.

EPA ICR # 1591.01; Reformulated Gasoline Regulations (NPRM); was not approved 08/12/91.

Extension of Expiration Date

EPA ICR # 1442; Land Disposal Restrictions: Information Requirements for First Third Scheduled Wastes (Amendment); expiration date extended to 11/30/91.

Dated: October 24, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91-26125 Filed 10-29-91; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59919; FRL 4001-8]

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 4 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-19, 92-20, 92-21, October 31, 1991.

Y 92-27, November 6, 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 92-19

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyl resin.

Use/Production. (S) Binder for industrial coatings. Prod. range: Confidential.

Y 92-20

Manufacturer. Confidential.

Chemical. (G) Polyester polyurethane.

Use/Production. (G) Coating. Prod. range: Confidential.

Y 92-21

Manufacturer. Confidential.

Chemical. (G) Polyester polyurethane.

Use/Production. (G) Coating. Prod. range: Confidential.

Y 92-27

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester.

Use/Production. (S) Gel coat compound. Prod. range: 54,500-270,000.

Dated: October 25, 1991.

Ruby N. Boyd,

Acting Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-26124 Filed 10-29-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-919-DR]

Major Disaster and Related Determinations; California

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-919-DR), dated October 22, 1991, and related determinations.

DATED: October 22, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

NOTICE: Notice is hereby given that, in a letter dated October 22, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Public Law 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the State of California, resulting from the Oakland Hills fire on October 20, 1991 and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint William M. Medigovich of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

The county of Alameda for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 91-26129 Filed 10-29-91; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 3348R.

Name: George Robert Cowan.

Address: 4701 Haygood Point Rd., Virginia Beach, VA 23455.

Date Revoked: October 6, 1991.

Reason: Failed to furnish a valid surety bond.

License Number: 2686R.

Name: Milne & Craighead Customs Brokers (USA) Inc.

Address: P.O. Box 335, Blaine, Washington 98230.

Date Revoked: October 7, 1991.

Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 91-26080 Filed 10-29-91; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission

applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Galaxy Forwarding Inc., 1424 NW. 82nd Ave., Miami, FL 33126.

Officers: George Pineiro, President, Stanley Leskin, Vice President, Malvis Sanchez, Secretary, Antonio Irizarry, Treasurer.

Transglobe Express, Inc. dba Enterprises Co., Ltd., 330 Georgetown Square, suite 203, Wood Dale, IL 60191.

Officers: Jung Keun Oh, President/Director/Stockholder, Anthony C. Cavalea, III, Secretary/Director/Stockholder, Arthur Cavalea, Vice President/Director/Stockholder.

KingCity Northway Forwarding (U.S.A.) Ldt., 225 Marion Street, River Rouge, MI 48218.

Officers: Gerald P. Gamache, President/Director, Michel Berard, Vice President/Director, John C. Staudt, Secretary/Treasurer.

M. J. Shea & Co., Inc., 2011 Cross Beam Drive, Charlotte, NC 28217.

Officers: Michael J. Shea, President, Carla D. Shea, Secretary/Treasurer, Barbara L. Scarborough, Vice President, Theodore S. Hoffman, Jr., Assistant Secretary.

Ask International, Inc., 1833 Fox Chase Road, Philadelphia, PA 19152.

Officers: Stuart J. Wohl, President, Karen E. Wohl, Vice President/Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: October 24, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-26081 Filed 10-29-91; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 91-50]

Citrans International; Possible Violation of Section 15(b) of the Shipping Act of 1984 and Commission Rule 510.25(a); Order of Investigation and Hearing

Barry Transfer and Storage Co., Inc. d/b/a Citrans International operates as a trucking company and international freight forwarder in South San Francisco, California. Mr. Robert Barry is President and owns 100% of the capital stock. Barry Transfer and Storage Co., Inc. operated under FMC license number 1168 until July 10, 1990, when its license was revoked for failure to maintain a surety bond.

Commission records show that the chief executive officer of Barry Transfer and Storage Co., Inc., Robert Barry, did not file anti-rebate certifications for the years 1988, 1989 and 1990 for Barry Transfer and Storage Co., Inc. as required by section 15(b) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1714, and Commission Rule 510.25(a), 46 CFR 510.25(a).

Now Therefore It Is Ordered, That pursuant to sections 3, 11, 13, 15, 17 and 19 of the 1984 Act, 46 U.S.C. app. 1702, 1710, 1712, 1714, 1716 and 1718, an investigation is hereby instituted to determine:

(1) Whether Robert Barry and Barry Transfer and Storage Co., Inc., violated section 15(b) of the 1984 Act and Commission Rule 510.25(a), by failing to file anti-rebate certifications for the years 1988, 1989 and 1990;

(2) Whether, in the event Robert Barry and Barry Transfer and Storage Co., Inc. violated section 15(b) of the 1984 Act or Commission Rule 510.25(a), civil penalties should be assessed and, if so, the amount of such penalties;

It Is Further Ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges in compliance with rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It Is Further Ordered, That Robert Barry and Barry Transfer and Storage Co., Inc. are designated Respondents in this proceeding;

It Is Further Ordered, That the Commission's Bureau of Hearing Counsel is designated a party to this proceeding;

It Is Further Ordered, That notice of this Order be published in the **Federal Register**, and a copy be served on parties of record;

It Is Further Ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It Is Further Ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It Is Further Ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record;

It Is Further Ordered, That in accordance with rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by October 26, 1992, and the final decision of the Commission shall be issued by February 23, 1993.

By the Commission.[1]

Joseph C. Polking,

Secretary.

[FR Doc. 91-26099 Filed 10-29-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Chadwick Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute

[1] Commissioner Quartel dissents.

and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 22, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Chadwick Bancshares, Inc., Chadwick, Illinois; to acquire 100 percent of the voting shares of Miles Service Corporation, Miles, Iowa, and thereby indirectly acquire Miles Savings Bank, Miles, Iowa.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. The Merchants Holding Company, Winona, Minnesota; to acquire 28.72 percent of the voting shares of Bank of Melrose, Melrose, Wisconsin.

Board of Governors of the Federal Reserve System, October 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-26110 Filed 10-29-91; 8:45 am]

BILLING CODE 6210-01-F

William March, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 15, 1991.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. William March, Omaha, Nebraska; to acquire an additional 24.46 percent, for a total of 71.26 percent, of the voting shares of Bank Management, Inc., Omaha, Nebraska.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Clear Lake National Bank Employee Stock Ownership Plan and Trust, Houston, Texas; to acquire 24.04 percent of the voting shares of Hometown Bancshares, Inc., Houston, Texas, and thereby indirectly acquire Clear Lake National Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, October 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-26111 Filed 10-29-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing an amendment to the agenda of a meeting of the Antiviral Drugs Advisory Committee which is scheduled for November 12 and 13, 1991. This meeting was announced in the **Federal Register** of October 17, 1991 (56 FR 52047). The change is being made to allow additional time to complete discussion of the day's agenda. Thee are no other changes. The date and place of the meeting remain the same as announced in the October 17, 1991 **Federal Register**. This amendment will be announced at the beginning of the open portion of the meeting.

FOR FURTHER INFORMATION CONTACT: Anna J. Baldwin, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 17, 1991, FDA announced that a meeting of the Antiviral Drugs Advisory Committee would be held on November 12 and 13, 1991. On page 52047, the time for this meeting is amended as follows:

Date, time, and place. November 12, 1991, 8 a.m., and November 13, 1991, 8:30 a.m., Holiday Inn, Versailles Ballrooms III and IV, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 12, 1991, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 4:30 p.m.; closed committee deliberations, November 13, 1991, 8:30 a.m. to 5 p.m.; Anna J. Baldwin, Center for Drug Evaluation and Research (HFD-9) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

Dated: October 24, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-25056 Filed 10-29-91; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511).

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Intermediary Request to Hospitals for Medical Information on Inpatient Claims for Statutorily Excluded Services; *Form Number:* HCFA-9026; *Use:* This form enables intermediaries to obtain hospital medical records for inpatient claims involving statutorily-excluded services (such as cosmetic surgery, dental, foot care, etc.); *Frequency:* On occasion; *Respondents:* Businesses/other for profit, nonprofit institutions, small businesses/organizations, and State/local governments; *Estimated Number of Responses:* 116; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 29.

2. *Type of Request:* New; *Title of Information Collection:* Discharge and Followup Patient Interviews (Evaluation of Home Health Prospective Payment Demonstration; *Form Number:* HCFA-R-22; *Use:* This phase of the demonstration will examine the impact of per-visit prospective payment for home health care on the quality of care, the use of non-Medicare services, and home health agency behavior; *Frequency:* On occasion; *Respondents:* Individuals/households, businesses/other for profit, small businesses/

organizations, and non-profit institutions; *Estimated Number of Responses:* 4,001; *Average Hours per Response:* .306; *Total Estimated Burden Hours:* 1,225.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements in 42 CFR 405.2112, .2123, .2136–.2140, and 2171–End Stage Renal Disease (ESRD) Conditions of Participation; *Form Number:* HCFAR–52; *Use:* These requirements are needed to encourage proper distribution and effective utilization of ESRD treatment sources while maintaining and improving the efficient delivery of care by physicians and facilities; *Frequency:* Annually; *Respondents:* Businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 2,000; *Average Hours per Response:* 39.34; *Total Estimated Burden Hours:* 78,681.

4. *Type of Request:* New; *Title of Information Collection:* Medicare Supplier Number Application; *Form Number:* HCFA–192; *Use:* Legislation requires all suppliers to disclose the names of owners and managing employees. This form establishes a standard for that data which will be used to identity common ownership and management and sanctioned individuals in the Medicare and Medicaid programs; *Frequency:* On occasion; *Respondents:* Businesses/other for profit and small businesses/organizations; *Estimated Number of Responses:* 56,667; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 56,667.

5. *Type of Request:* New; *Title of Information Collection:* Current Beneficiary Survey—Rounds 2—10; *Form Number:* HCFA–P–15A; *Use:* Rounds 2 through 10 of the Current Beneficiary Survey—Medicare—collect cost and utilization data for the household and nursing home. Data will be used to assess how health care systems' changes in the 1990's affect the use, access, availability, and cost of medical care for the Medicare beneficiaries; *Frequency:* Quarterly/on occasion; *Respondents:* Individuals/households, businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 40,000; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 40,000.

Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: October 21, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91–26127 Filed 10–29–91; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[G–950–G2–4830–17]

Change of Address/Relocation; New Mexico; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction of zip codes.

SUMMARY: This notice corrects the address previously published in the **Federal Register** October 4, 1991. (FR Doc. 91–23868). The mailing address for the New Mexico State Office will be: Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–7115. Please address all correspondence to this address. The physical address will be 1474 Rodeo Rd., Sante Fe, New Mexico 87505. All other information remains unchanged.

EFFECTIVE DATE: This notice is effective November 4, 1991.

FOR FURTHER INFORMATION CONTACT: Eileen G. Vigil, BLM, New Mexico State Office, 505–988–6047.

Dated: October 21, 1991.

Frank Splendoria,

Acting State Director.

[FR Doc. 91–26060 Filed 10–29–91; 8:45 am]

BILLING CODE 4310–FB–M

[G–010–G1–0123–4212–13; NMNM 80821]

Issuance of Exchange Conveyance Document and Order Providing for Opening of Public Land in Taos County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 120.00 acres of public land out of Federal ownership. This action will also open the 3,103.65 acres of reconveyed land to the operation of the public land laws.

FOR FURTHER INFORMATION CONTACT: Taos Resource Area Manager, 224 Cruz Alta Road, Taos, New Mexico 87571.

SUPPLEMENTARY INFORMATION: The United States issued an exchange conveyance document to Louis Menyhert on February 27, 1991, for the following described land located in Dona Ana County, New Mexico, pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716):

New Mexico Principal Meridian

T. 22 S., R. 2 E.,
Sec. 10, SE¼SW¼ and S½SE¼.

Containing 120.00 acres.

In exchange for the land described above, Louis Menyhert reconveyed to the United States the following described land located in Taos County, New Mexico:

New Mexico Principal Meridian

T. 26 N., R. 11 E.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½.
T. 27 N., R. 11 E.,
Sec. 1, S½N½SE¼SE¼ and S½SE¼SE¼;
Sec. 36, lots 1 to 4, inclusive, W½E½, and W½.
T. 32 N., R. 11 E.,
Sec. 22, lots 1 to 4, inclusive, and S½S½;
Sec. 23, lots 1 to 4, inclusive, and S½S½;
Secs. 26 and 27.

Containing 3,103.65 acres.

The purpose of the exchange was to acquire private land north and west of Taos, New Mexico, with a large parcel near the Colorado State Line and the Rio Grande Wild and Scenic River. The acquired land will be managed in conformance with the 1988 Taos Resource Area Management Plan. One section of land is within the Rio Grande Wild and Scenic River Corridor and the remainder within one (1) mile of the corridor and will be managed for protection. The acquired land will also provide valuable wildlife habitat for antelope and deer and will be managed for protection of that habitat.

The exchange was consistent with the Bureau's land use plans in both areas. The public interest was served through the completion of this exchange.

The values of the Federal public land and the non-Federal land in the exchange were appraised at $305,900.00 and $304,600.00, respectfully.

At 9 am. on November 29, 1991, the land reconveyed to the United States shall be open to the operation of the public land laws, generally, 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 am. on November 29, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: October 16, 1991.

Monte G. Jordan,

Associate State Director.

[FR Doc. 91-26097 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-FB-M

[WA0R 45733]

Amendment of Realty Action: Exchange of Public Lands in Ferry, Lincoln, Pend Oreille, and Stevens Counties, WA

AGENCY: Bureau of Land Management, Interior (OR-130-02-4212-13); G2-028.

SUMMARY: This notice amends the Realty Action published in Vol. 55, page 2,155 of the **Federal Register** on January 22, 1990, to include the following described lands proposed for acquisition:

Willamette Meridian

T. 22 N., R. 32 E., Sec. 7, N½;

Aggregating 320 acres in Lincoln County, Washington.

Date of Issue: October 17, 1991.

Joseph K Buesing,

District Manager.

[FR Doc. 91-25816 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-33-M

[CO-942-92-4730-12]

Colorado: Filing of Plats of Survey

October 17, 1991.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., October 17, 1991.

The field notes representing the remonumentation of the corner common to Nebraska and Kansas on the east boundary of Colorado of the Sixth Principal Meridian, Colorado, Group No. 750, was accepted May 29, 1991.

The plat representing the dependent resurvey of a portion of the subdivision of section 18 and a metes-and-bounds survey of lots 6 and 8 in section 18, T. 10 S., R. 97 W., Sixth Principal Meridian, Colorado, Group No. 905, was accepted August 9, 1991.

The plat representing the dependent resurvey of portions of the subdivisional lines and certain mineral claims in sections 19 and 20, T. 1 N., R. 71 W., Sixth Principal Meridian, Colorado, Group No. 962, was accepted August 18, 1991.

The supplemental plat abolishing lots 23 and 26 from the E½ of the NE¼ of section 17, T. 1 S., R. 78 W., Sixth Principal Meridian, Colorado, was accepted August 28, 1991.

The protraction diagram of the following described township will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., December 9, 1991.

Protraction Diagram No. 51 prepared to delineate the remaining unsurveyed public lands in T. 41½ N., R. 3 W. and T. 42 N., R. 3½ W., New Mexico Principal Meridian, Colorado, was approved August 23, 1991.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of the subdivisional line between sections 19 and 30 and the Jamestown Townsite, T. 2 N., R. 71 W., Sixth Principal Meridian, Colorado, Group No. 898, was accepted September 6, 1991.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines, T. 3 N., R. 87 W., Sixth Principal Meridian, Colorado, Group No. 930, was accepted August 20, 1991.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Darryl A. Wilson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 91-26061 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-JB-M

[ID-943-4214-11; IDI-15611, IDI-15649, IDI-15646]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that 2761.57 acres in three withdrawals for Powersite Reserve Nos. 373, 168 and 193 continue for an additional 20 years. The land is still needed for waterpower purposes. These lands will remain closed to surface entry, but have been and would remain open to mineral leasing and mining.

DATES: Comments should be received on or before January 28, 1992.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, BLM, 3380 Americana Terrace Boise, Idaho 83706, (208) 384-3166.

The Bureau of Land Management proposes that the existing land withdrawals made by Executive Orders dated July 3, 1913, July 26, 1911 and December 19, 1910, for Powersite Reserve Nos. 373, 168 and 193 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, insofar as it affects the following described land:

Boise Meridian

(Powersite Reserve No. 373)

T. 13 S., R. 40 E.,
- Sec. 13, E½NE¼, SW¼NE¼ and W½SE¼;
- Sec. 23, N½NE¼ and SE¼NW¼;
- Sec. 26, SW¼NW¼.

T. 9 S., R. 41 E.,
- Sec. 13, E½SE¼;
- Sec. 24, E½NE¼, NE¼SW¼ and W½SE¼;
- Sec. 25, NW¼NE¼.

(Powersite Reserve No. 193)

T. 13 S., R. 40 E.,
- Sec. 12, SE¼SE¼;
- Sec. 13, SE¼NW¼ and E½SW¼;
- Sec. 23, S½NE¼, E½SW¼, N½SE¼ and SW¼SE¼;
- Sec. 24, N½NW¼ and SW¼NW¼;
- Sec. 26, SW¼NE¼;
- Sec. 35, SE¼NW¼ and E½SW¼.

T. 13 S., R. 41 E.,
- Sec. 6, lot 5, SE¼NW¼, E½SW¼ and W½SE¼;
- Sec. 7, lot 4, NW¼NE¼, NE¼NW¼ and SE¼SW¼;
- Sec. 18, lots 1 and 2.

T. 14 S., R. 40 E.,
- Sec. 2, NW¼SW¼;
- Sec. 3, lot 1, SE¼NE¼, NE¼SW¼, S½SW¼, N½SE¼ and SW¼SE¼E;
- Sec. 9, lots 1, 5 and 6;
- Sec. 10, NW¼, N½SW¼ and SW¼SW¼;
- Sec. 15, NW¼NW¼.

(Powersite Reserve No. 168)

T. 12 N., R. 2 W.,
- Sec. 19, S½SE¼.

The area described contains 2761.57 acres in Franklin, Washington and Caribou counties.

The withdrawals are essential for protection of waterpower potential development. The existing withdrawals close the described land to surface entry but not to mineral leasing and mining. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to

determine the existing and potential demand for the land and its 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 withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: October 21, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-26098 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Availability of the Draft Environmental Assessment and Land Protection Plan; Proposed Establishment of Bayou Cocodrie National Wildlife Refuge, Concordia Parish, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Draft Environmental Assessment and Land Protection Plan for the Proposed Establishment of Bayou Cocodrie National Wildlife Refuge.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, proposes to carry out the Congressional mandate (Pub. L. 101-593, section 108 of H.R. 3338) to establish a national wildlife refuge in the vicinity of Concordia Parish, Louisiana. The purpose of the new refuge is to protect and manage approximately 17,269 acres of wetlands and bottomland hardwood forests for the benefit of wintering waterfowl and other wildlife. A Draft Environmental Assessment and Land Protection Plan has been developed by Service biologists in coordination with the Louisiana Department of Wildlife and Fisheries, The Nature Conservancy, Ducks Unlimited, and other private groups. The assessment considers the biological, environmental, and socioeconomic effects of acquiring 17,269 acres of waterfowl habitat in the area to establish the refuge. The assessment also evaluates three alternative actions and their potential impacts on the environment. Written comments or recommendations concering the proposal are welcomed, and should be sent to the address below.

DATES: Land acquisition planning for the project is currently underway. The draft assessment will be available to the public for review and comment on November 22, 1991. Written comments must be received no later than January 15, 1992 to be considered.

ADDRESSES: Comments and requests for copies of the assessment and further information should be addressed to Mr. Charles R. Danner, Chief, Project Development Branch, Office of Refuges and Wildlife, U.S. Fish and Wildlife Service, 75 Spring Street SW., room 1240, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION: On November 16, 1990, Congress passed Public Law 101-593 (section 108 of H.R. 3338) authorizing and directing the establishment of the new Bayou Cocodrie National Wildlife Refuge in Louisiana. The management objectives of the refuge are to provide (1) wintering habitat for migratory waterfowl, (2) habitat for a natural diversity of wildlife, (3) nesting habitat for resident wood ducks, (4) habitat for non-game migratory birds, including the establishment of Research Natural Areas to accomplish this, and (5) opportunities for environmental education, research, interpretation, and wildlife-oriented recreation.

The proposed Bayou Cocodrie refuge area contains some of the last remaining, least disturbed wetlands and bottomland hardwood forests in the Mississippi River Delta. The area has been identified as high quality waterfowl habitat by the Lower Mississippi Valley Joint Venture of the North American Waterfowl Management Plan. The area's open wetlands and bottomland forests provide attractive, shallow-water feeding areas for pintails and other dabbling ducks such as mallards and blue-winged teal. The area also provides excellent habitat for resident game such as the whitetailed deer, wild turkey, woodcock, and gray and fox squirrels. Wading birds and shorebirds are abundant in the depressional sloughs and small lakes. The bottomland hardwoods also serve both as permanent homes and migration habitat for many species of passerine birds, including neotropical migrants. Endangered species occurring in the area include wintering bald eagles and occasional peregrine falcons.

The proposed refuge area is located in Concordia Parish in east central Louisiana, about 10 miles southwest of Vidalia and 50 miles northeast of Alexandria. Other nearby national wildlife refuges include Catahoula, 25 miles to the west; Lake Ophelia, 25 miles southwest; and Grand Cote, 40 miles southwest.

The draft environmental assessment was developed by the Service in consultation with representatives from the Louisiana Department of Wildlife and Fisheries, The Nature Conservancy Ducks Unlimited, and the Delta Environmental Land Trust Association. The biological, environmental, and socioeconomic effects of acquiring approximately 17,269 acres of waterfowl habitat for the establishment of the refuge have been considered. Three alternatives and their potential impacts on the environment are presented and evaluated. The Service believes the preferred alternative, Acquisition and Management by the U.S. Fish and Wildlife Service, is a positive step in preventing the loss of additional wetlands needed to support waterfowl populations in the Lower Mississippi River Valley.

Dated: October 15, 1991.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 91-26093 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf Oil and Gas Lease Sales; List of Restricted Joint Bidders

Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from November 1, 1991, through April 30, 1992. The List of Restricted Joint Bidders published in the **Federal Register** on April 4, 1991, at 56 FR 13842 covered the bidding period of May 1 through October 31, 1991.

Group I	Chevron Corp.; Chevron U.S.A. Inc.
Group II	Exxon Corp.; Exxon San Joaguin Production Co.
Group III	Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.
Group IV	Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.
Group V	BP America Inc.; The Standard Oil Co.; BP Exploration Inc.; BP Exploration (Alaska) Inc.

Dated: October 23, 1991.

Scott Sewell,

Director, Minerals Management Service.

[FR Doc. 91-26108 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Plan of Operations and Environmental Assessment for Continuing Operation of 20-Inch Natural Gas Pipeline; Samedan Pipe Line Corp.; Padre Island National Seashore Kleberg County, TX

Notice is hereby given in accordance with § 9.52(b) of title 36 of the Code of Federal Regulations that the National Park Service has received from Samedan Pipe Line Corporation a Plan of Operations for the Continuing Operation of a 20-inch Natural Gas Pipeline within Padre Island National Seashore, Kleberg County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment, for a period of 30 days from the publication date of this notice, in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas; and the Southwest Regional Office, National Park Service, 1220 South St. Francis Drive, room 211, Santa Fe, New Mexico. Copies are available from the Southwest Regional Office, Post Office Box 728, Santa Fe, New Mexico 87504-0728, and will be sent upon request.

Dated: October 24, 1991.

Douglas Faris,

Acting Regional Director, Southwest Region.

[FR Doc. 91-26175 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-70-M

Wrangell-St. Elias National Park Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Wrangell-St. Elias National Park announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of commission members and guests.

(2) Review of SRC function and purpose.

(3) Review and approval of minutes.

(4) Old business.

(5) Federal Subsistence Program update.

(6) Review federal subsistence seasons and bag limits.

(7) Public and other agency comments.

(8) Hunting plan recommendation work session (revise and prepare hunting plan recommendations for submission to the Secretary of the Interior and the Governor of Alaska).

(9) New business.

DATES: The meeting will begin at 9 a.m. on Wednesday, November 13, 1991, and conclude around 5 p.m. The meeting will reconvene at 9 a.m. on Thursday, November 14 and conclude around 5 p.m.

LOCATION: The meeting will be held at the Caribou Restaurant, Glennallen, Alaska.

FOR FURTHER INFORMATION CONTACT: Karen Wade, Superintendent, P.O. Box 349, Glennallen, Alaska 99588. Phone (907) 822-5234.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Gary D. Gauthier,

Acting Regional Director.

[FR Doc. 91-26174 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-70-M

U.S. World Heritage Nomination 1991

AGENCY: National Park Service, Department of the Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, through the National Park Service, announces the nomination of Glacier Bay National Park and Preserve to the World Heritage List. The nomination is the result of Interior's World Heritage nomination process, which was initiated through a March 20, 1990, **Federal Register** notice (55 FR 10327). The Department subsequently announced the identification of the site as a proposed U.S. World Heritage nomination on August 10, 1990 (55 FR 32705). The nomination has been submitted to the Secretariat of the World Heritage Committee for consideration through a process that could lead to its inscription on the World Heritage List by December 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Milne, Chief, Office of International Affairs, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127, (202) 343-7063.

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 114 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world. Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 337 cultural and natural properties. The World Heritage Committee evaluates all nominations against established criteria.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 16 U.S.C. 470 a-1, a-2). On May 27, 1982, the Interior Department published in the **Federal Register** the final rules which are used to carry out this legislative mandate (47 FR 23392). The rules contain further information on the Convention and its implementation in the United States.

U.S. WORLD HERITAGE NOMINATION: 1991.

The Interior Department, in cooperation with the Federal Interagency Panel for World Heritage, selected the following property as a U.S. nomination to the World Heritage Committee for inscription on the World Heritage List.

I. Natural Property

Alaska

Pacific Mountain System

Glacier Bay National Park and Preserve, Alaska (58 30'N; 136 30'W). Great tidewater glaciers, a dramatic range of plant communities from rocky terrain recently covered by ice to lush temperate rainforest and a large variety of animals, including brown and black bear, mountain goats, whales, seals and eagles, can be found in this Park. The nomination will propose the addition of

the Park to the existing joint U.S.-Canada World Heritage Site of Wrangell-St. Elias/Kluane National Parks, as an extension and enhanced coverage of the latter's primary natural history themes.

Criterion: (ii) an outstanding example of significant ongoing geological processes and biological evolution.

Dated: October 17, 1991.

Mike Hayden,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 91-26176 Filed 10-29-91; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-530 and 531 (Preliminary)]

High-Tenacity Rayon Filament Yarn From Germany and The Netherlands

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Germany and the Netherlands of high-tenacity rayon filament yarn,[2] provided for in subheading 5403.10.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 6, 1991, a petition was filed with the Commission and the Department of Commerce by North American Rayon Corp., Elizabethton, TN, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of high-tenacity rayon filament yarn from Germany and the Netherlands. Accordingly, effective September 6, 1991, the Commission instituted antidumping investigations Nos. 731-TA-530 and 531 (Preliminary).

Notice of the institution of the Commission's investigations 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 September 13, 1991 (56 FR 46643). The conference was held in Washington, DC, on September 27, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on October 21, 1991. The views of the Commission are contained in USITC Publication 2444 (October 1991), entitled "High-Tenacity Rayon Filament Yarn from Germany and The Netherlands: Determinations of the Commission in Investigations Nos. 731-TA-530 and 531 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: October 22, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-26148 Filed 10-29-91; 8:45 am]

BILLING CODE 7020-02-M

Magnesium From Canada and Norway; Investigations Nos. 701-TA-309 and 731-TA-528 and 529 (Preliminary); Determinations

On the basis of the record [1] developed in investigation No. 701-TA-309 (Preliminary), the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930,[2] that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of magnesium,[3] that are alleged to be subsidized by the Government of Canada.

The Commission further unanimously determines, on the basis of the record developed in investigations Nos. 731-TA-528 and 529 (Preliminary), pursuant to section 733(a) of the Tariff Act of 1930,[4] that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada and Norway of magnesium,[5] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 5, 1991, a petition was filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by Magnesium Corp. of America (Magcorp), Salt Lake City, UT. The petition alleges that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of magnesium from Canada and LTFV imports of magnesium from Canada and Norway. Accordingly, effective September 5, 1991, the Commission instituted countervailing duty investigation No. 701-TA-309 (Preliminary) and antidumping investigations Nos. 731-TA-528 and 529 (Preliminary).[6]

Notice of the institution of the Commission's investigations 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 September 12, 1991.[7] The conference was held in Washington, DC, on September 26, 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 October 21, 1991. The views of the Commission are contained in USITC Publication 2443 (October 1991), entitled "Magnesium from Canada and Norway: Determinations of the Commission in Investigations Nos. 701-TA-309 and 731-TA-528 and 529 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: October 22, 1991.

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[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure [19 CFR 207.2(f)].

[2] For purposes of these investigations, high-tenacity rayon filament yarn is defined as multifilament single yarn of viscose rayon with twist of 5 turns or more per meter, having a denier of 1100 or greater and a tenacity greater than 35 centinewtons per tex.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 19 U.S.C. 1671b(a).

[3] The products covered by this investigation are pure and alloy magnesium. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Pure and alloy magnesium are provided for in subheadings 8104.11.00 and 8104.19.00, respectively, of the Harmonized Tariff Schedule of the United States (HTS).

[4] 19 U.S.C. 1673b(a).

[5] The products covered by these investigations are identical to those in investigation No. 701-TA-309 (Preliminary).

[6] The Commission also instituted preliminary countervailing duty investigation No. 701-TA-310 regarding imports from Norway; however, Commerce dismissed the petition involving Norway and the Commission accordingly terminated its investigation effective September 26, 1991 (56 FR 49748).

[7] 56 FR 46443.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-26160 Filed 10-29-91; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

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, Ms. Lin Liu, on (202) 395-7340 and to the Department of Justice's Clearance Office, Mr. Lewis B. 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 Officer 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 B. Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

This notice contains a collection for which an expedited review has been requested from the Office of Management and Budget (INS Form I-751). In an effort to fully inform the reporting public, this entry is printed in full, including instructions, at the end of this notice. Written comments concerning this form should be sent to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street NW., room 5304, Washington, DC 20536, Attention: Form I-751, within 15 days after the date of publication of this notice in the **Federal Register.**

Revision of Currently Approved Collection

An expedited review has been requested for this entry.

(1) Petition to Remove Condition on Residence.

(2) I-751, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is for a conditional resident who obtained such status through marriage to apply to remove the conditions on his or her residence.

(5) 163,000 annual respondents at 1.335 hours per response.

(6) 220,050 annual burden hours.

(7) Not applicable under 3504(h).

This form replaces the prior:

- I-151, Application to Remove Conditions on Residence;
- I-152, Application to Waive the Joint Filing of an I-151.

The new form merges these processes onto one form to simplify the process and reduce agency costs.

These forms now have separate fees. The I-751 fee is $65 and the I-752 fee is $85. In the interests of consistency these fees will be averaged, and the new I-751 fee will be $75. This is $5 above the cost of an application to replace an alien registration card, which is only part of the I-751 process.

Public comment on these is encouraged.

Dated: October 23, 1991.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

BILLING CODE 4410-10-M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

Petition to Remove the Conditions on Residence

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial

Address - C/O:

Street Number and Name	Apt. #

City	State or Province

Country	ZIP/Postal Code

Date of Birth (month/day/year)	Country of Birth
Social Security #	A #
Conditional residence expires on (month/day/year)	

Mailing address if different from residence in C/O:

Street Number and Name	Apt. #

City	State or Province

Country	ZIP/Postal Code

Part 2. Basis for petition *(check one)*.

a. ☐ My conditional residence is based on my marriage to a U.S. citizen or permanent resident, and we are filing this petition together.

My conditional residence is based on my marriage to a U.S. citizen or permanent resident, but I am unable to file a joint petition and I request a waiver because: (check one)

b. ☐ My spouse is deceased.

c. ☐ I entered into the marriage in good faith, but the marriage was terminated though divorce/annulment.

d. ☐ I am a conditional resident spouse who entered in to the marriage in good faith, or I am a conditional resident child, who has been battered or subjected to extreme mental cruelty by my citizen or permanent resident spouse or parent.

e. ☐ I am a child who entered as a conditional permanent resident and I am unable to be included in a Joint Petition to Remove the Conditional Basis of Alien's Permanent Residence (Form I-751) filed by my parent(s).

f. ☐ The termination of my status and deportation from the United States would result in an extreme hardship.

Part 3. Additional information about you.

Other names used *(including maiden name)*:		Telephone #
Date of Marriage	Place of Marriage	Job Title

If your spouse is deceased, give the date of death (month/day/year)

Are you in deportation or exclusion proceedings? ☐ Yes ☐ No

Was a fee paid to anyone other than an attorney in connection with this petition? ☐ Yes ☐ No

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	

Remarks

Action

To Be Completed by Attorney or Representative, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG #

ATTY State License #

Continued on back.

○ DRAFT ○

Part 3. Additional information about you. (con't)

Since becoming a conditional resident, have you ever been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinace (excluding traffic regulations), or committed any crime for which you were not arrested? ☐ Yes ☐ No

If you are married, is this a different marriage through which conditional residence status was obtained? ☐ Yes ☐ No

Have you resided at any other address since you because a permanent resident? ☐ Yes ☐ No *(If yes, attach a list of all addresses and dates.)*

Is your spouse currently serving in the United States government overseas? ☐ Yes ☐ No

Part 4. Information about the spouse or parent through whom you gained your conditional residence.

Family Name	Given Name	Middle Initial	Phone Number ( )

Address

Date of Birth *(month/day/year)*	Social Security #	A#

Part 5. Information about your children. *List all your children. Attached another sheet if necessary*

Name	Place and Date of Birth	Address of Child	If in the U.S. give A#, date of arrival, and current immigration status (conditional resident?)
1			☐ Yes ☐ No
2			☐ Yes ☐ No
3			☐ Yes ☐ No

Part 6. Complete if you are requesting a waiver of the joint filing petition requirement based on extreme mental cruelty.

Evaluator's ID Number: State: ☐☐ Number: ☐☐☐☐☐☐☐☐	Expires on *(month/day/year)*	Occupation

Last Name	First Name	Address

Part 7. Signature. *Read the information on penalties in the instructions before completing this section. If you checked block "a" in Part 2 your spouse must also sign below.*

I certify, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If conditional residence was based on a marriage, I further certify that the marriage was entered into in accordance with the laws of the place where the marriage took place, and was not for the purpose of procuring an immigration benefit. I also authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Signature	Print Name	Date
Signature of Spouse	Print Name	Date

Please note: If you do not completely fill out this form, or fail to submit any required documents listed in the instructions, then you cannot be found eligible for the requested benefit, and this petition may be denied.

Part 8. Signature of person preparing form if other than above.

I declare that I prepared this petition at the request of the above person and it is based on all information of which I have knowledge.

Signature	Print Name	Date

Firm Name and Address

Form I-751 (Rev. 9/30/91) DRAFT 3

BILLING CODE 4410-10-C

DRAFT

U.S. Department of Justice

Immigration and Naturalization Service

[OMB No. 1115—Petition To Remove the Conditions on Residence]

Purpose of This Form

This form is for a conditional resident who obtained such status through marriage to apply to remove the conditions on his or her residence.

Who May File

If you were granted conditional resident status through marriage to a U.S. citizen or permanent resident, use this form to petition for the removal of those conditions. Your petition should be filed jointly by you and the spouse through whom you obtained conditional status if you are still married. However, you can apply for a waiver of this joint filing requirement on this form if:

- you entered into the marriage in good faith, but your spouse subsequently died;
- you entered into the marriage in good faith, but the marriage was later terminated due to divorce or annulment;
- you entered the marriage in good faith, and remain married, but have been battered or subjected to extreme mental cruelty by your U.S. citizen or permanent resident spouse; or
- the termination of your status, and deportation, would result in extreme hardship.

You may include your conditional resident children in your petition, or they can file separately.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), and indicate the number of the item to which the answer refers. You must file your petition with the required Initial Evidence. Your petition must be properly signed and accompanied by the correct fee. If you are under 14 years of age, your parent or guardian may sign the petition in your behalf.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records.

Initial Evidence

Alien registration card. You must file your petition with a copy of your alien registration card, and with a copy of the alien registration card of any of your conditional resident children you are including in your petition.

Evidence of the relationship. Submit copies of documents indicating that the marriage upon which you were granted conditional status was entered into in "good faith", and was not for the purpose of circumventing immigration laws. You should submit copies of as many documents as you wish to establish this fact and to demonstrate the circumstances of the relationship from the date of the marriage to date, and to demonstrate any circumstances surrounding the end of the relationship, if it has ended. The documents should cover as much of the period since your marriage as possible. Examples of such documents are:

- Birth certificate(s) of child(ren) born to the marriage.
- Lease or mortgage contracts showing joint occupancy and/or ownership of your communal residence.
- Financial records showing joint ownership of assets and joint responsibility for liabilities, such as joint savings and checking accounts, joint federal and state tax returns, insurance policies which show the other as the beneficiary, joint utility bills, joint installment or other loans.
- Other documents you consider relevant to establish that your marriage was not entered into in order to evade the immigration laws of the United States.
- Affidavits sworn to or affirmed by at least 2 people who have known both of you since your conditional residence was granted and have personal knowledge of your marriage and relationship. (Such persons may be required to testify before an immigration officer as to the information contained in the affidavit.) The original affidavit must be submitted, and it must also contain the following information regarding the person making the affidavit: his or her full name and address; date and place of birth; relationship to you or your spouse, if any; and full information and complete details explaining how the person acquired his or her knowledge. Affidavits must be supported by other types of evidence listed above.

If you are filing to waive the joint filing requirement due to the death of your spouse, also submit a copy of the death certificate with your petition.

If you are filing to waive the joint filing requirement because your marriage has been terminated, also submit a copy of the divorce decree or other document terminating or annulling the marriage with your petition.

If you are filing to waive the joint filing requirement because you and/or your conditional resident child were battered or subjected to extreme mental cruelty, also file your petition with the following.

- Evidence of the physical abuse, such as copies of reports or official records issued by police, judges, medical personnel, school officials, and representatives of social service agencies, and original affidavits as described under *Evidence of the Relationship*; or
- Evidence of the extreme mental cruelty, and an original evaluation by a professional recognized by the Service as an expert in the field. These experts include clinical social workers, psychologists and psychiatrists. A clinical social worker who is not licensed only because the State in which he or she practices does not provide for licensing is considered a licensed professional recognized by the Service if he or she is included by the National Association of Social Workers or is certified by the American Board of Examiners in Clinical Social Work. Each evaluation must contain the professional's full name, professional address and license number. It must also identify the licensing, certifying or registering authority.
- A copy of your divorce decree if your marriage was terminated by divorce on grounds of physical abuse or mental cruelty.

If you are filing for a waiver of the joint filing requirement because the termination of your status, and deportation would result in "extreme hardship", you must also file your petition with evidence your deportation would result in hardship significantly greater than the hardship encountered by other aliens who are deported from this country after extended stays. The evidence must relate only to those factors which arose since you became a conditional resident.

If you are a child filing separately from your parent, also file your petition with a full explanation as to why you are filing separately, along with copies of any supporting documentation.

When To File

Filing jointly. If you are filing this petition jointly with your spouse, you must file it during the 90 days immediately before the second anniversary of the date you were accorded conditional resident status. This is the date your conditional residence expires. However, if you and your spouse are outside the United States on orders of the U.S. Government during the period in which the petition must be filed, you may file it within 90 days of your return to the U.S.

Filing with a request that the joint filing requirement be waived. You may file this petition at any time after you are granted conditional resident status and before you are deported.

Effect of not filing. If this petition is not filed, you will automatically lose your permanent resident status as of the second anniversary of the date on which you were granted this status. You will then become deportable from the United States. If your failure to file was through no fault of your own, you may file your petition with a written explanation and request that INS excuse the late filing. Failure to file before the expiration date may be excused if you demonstrate when you file the application that the delay was due to extraordinary circumstances beyond your control and that the length of the delay was reasonable.

Effect of Filing

Filing this petition extends your conditional residence for six months. You will receive a filing receipt which you should carry with your alien registration card (Form I–551). If you travel outside the U.S. during this period, you may present your card and the filing receipt to be readmitted.

Where To File

If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, or West Virginia, mail your petition to: USINS Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479–0001.

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail your petition to: USINS Southern Service Center, P O Box 152122, Dept. A, Irving, TX 75015–2122.

If you live in Arizona, California, Guam, Hawaii, or Nevada, mail your petition to: USINS Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607–0040.

If you live elsewhere in the U.S., mail your petition to: USINSS Northern Service Center, 100 Centennial Mall North, Room B–26, Lincoln, NE 68508.

Fee

The fee for this petition is $75.00. The fee must be submitted in the exact amount. It cannot be refunded. **DO Not Mail Cash.**

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency.The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this petition in Guam, make your check or money order payable to the "Treasurer, Guam".
- If you are living in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands".

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information

Rejection. Any petition that is not signed, or is not accompanied by the correct fee, will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service.

Initial processing. Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file if without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

Requests for more information or interview. We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. You will be advised in writing of the decision on your petition.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1184, 1255 and 1258. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

All the information provided on this form, including addresses, are protected by the Privacy Act and the Freedom of Information Act. This information will not be released in any form whatsoever to a third party, other than another government agency, who requests it without a court order, or without written consent, or, in the case of a child, the written consent of the parent or legal guardian who filed the form on the child's behalf.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 15 minutes to learn about the law and form; (2) 15 minutes to complete the form; and (3) 50 minutes to assemble and file the petition; for a total estimated average of 1 hour and 20 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C.

[FR Doc. 91–26077 Filed 10–29–91, 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

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, Ms. Lin Liu 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 Officer 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.

Revision of a Currently Approved Collection

(1) Immigrant Petition by Alien Entrepreneur.

(2) I–526, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used to petition for classification as an alien entrepreneur as provided by sections 121(b)(5) and 162(b) of the Immigration Act of 1990. The data collected on this form will be used by the Service to determine eligibility for the requested immigration benefit.

(5) 2000 annual respondents at 1.25 hours per total response.

(6) 2,500 annual burden hours.

(7) Not applicable under 3504(h).

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Freedom of Information/Privacy Act Request.

(2) G–639, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form will be used by persons reguesting a search of INS records under the Freedom of Information Act or the Privacy Act.

(5) 25,000 annual respondents at .25 hours per response.

(6) 6,250 annual burden hours.

(7) Not applicable under 3504(h).

(1) Guarantee of Payment.

(2) I–510, Immigration and Naturalization Service.

(3) On occasion.

(4) Businesses or other for-profit. Section 253 of the I&N Act provides that the master or agent of a vessel or aircraft shall guarantee payment for expenses incurred for an alien crewman who arrived in the United States and is afflicted with any disease or illness mentioned in section 255 of the I&N Act.

(5) 100 annual respondents at .083 per response.

(6) 8.3 annual burden hours.

(7) Not applicable under 3504(h).

(1) Application to pay off or Discharge Alien Crewmen.

(2) I–408, Immigration and Naturalization Service.

(3) On occasion.

(4) Businesses or other for-profit. Reguired by section 256 of the Immigration and Nationality Act for use in obtaining permission from the Attorney General by master or agent for vessel or aircraft to discharge or pay off alien crewmen in the United States.

(5) 85,000 annual response at .25 hours per reponse.

(6) 21,250 annual burden hours.

(7) Not applicable under 3504(h).

(1) Arrival and Departure Record.

(2) I–94, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Documentation of alien arrival and departure to and from the United States is part of the manifest reguirements of sections 231 and 255 of the Immigration and Nationality Act and may be evidence of registration when issued as provided by section 264 of the Act.

(5) 19,000,000 annual responses at .066 per response.

(6) 1,254,000 annual burden hours.

(7) Not aplicable under 3504(h).

Public comment on these items is encouraged.

Dated: October 24, 1991

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 91–26161 Filed 10–29–91; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91–97]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC).

DATES: November 13, 1991, 9 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 7002, Federal Office Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code ADA–2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–8766.

SUPPLEMENTARY INFORMATION: The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Caleb Hurtt and is composed of 26 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, aerospace medicine, space science and applications, space systems and technology, space station, commercial programs, and history, as they relate to NASA's activities.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Council members and other participants. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be reguested to sign a visitor's register.

TYPE OF MEETING: Open.

Agenda

Wednesday, November 13, 1991

9 a.m.—Discussion of Program Updates, Recent Organizational Changes, and Fiscal Year 1992 Budget Implications.

5 p.m.—Adjourn.

Dated: October 25, 1991

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91–26130 Filed 10–29–91; 8:45 am]

BILLING CODE 7510–01–M

[Notice 91–96]

NASA Advisory Council (NAC), Commercial Programs Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Commercial Programs Advisory Committee.

DATES: November 20, 1991, 8:30 a.m. to 2:30 p.m.

ADDRESSES: Ohio State University, room 156, University Hall, 230 North Oval Mall, Columbus, OH 43216.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Stone, Office of Commercial Programs, National Aeronautics and Space Administration, Washington, DC 20546, 703/271–5500.

SUPPLEMENTARY INFORMATION: The Commercial Programs Advisory Committee is concerned with the overall NASA program supporting the commercial development of space, both relevant policies and program scope and content. The Committee is chaired by Mr. James K. Baker and is currently composed of 15 members.

The meeting will be closed to the public from 12:40 p.m. to 2:30 p.m. for a discussion of the qualifications of additional candidates for membership of the Committee. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this discussion will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. Prior to the closed session, the meeting will be open to the public up to the seating capacity of the room, which is approximately 30 persons including the Committee members and other participants. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants.

TYPE OF MEETING: Open—except for a closed session as noted in the agenda below.

Agenda

November 20, 1991

8:30 am.—Opening Remarks/Introduction of Members.
8:55 a.m.—Commercial Programs Update.
9:35 a.m.—Commercial Programs Strategic Planning.
10:55 a.m.—Report on Centers for the Commercial Development of Space.
11.25 a.m.—Industry Agreements.
11:45 a.m.—Pricing Policy for Space Infrastructure.
12:40 p.m.—Closed Session.
2:30 pm.—Adjourn.

Dated: October 24, 1991

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91–26133 Filed 10–29–91; 8:45 am]

BILLING CODE 7510–01–M

[Notice 91–94]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee.

DATES: November 22, 1991, 8:15 a.m. to 4:15 p.m.

ADDRESSES: National Aeronautics and Space Administration, Federal Building 10B, room 625, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–2367.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance and direction to the space research and technology activities in the Office of Aeronautics and Space Technology (OAST). The Committee, chaired by Dr. Joseph F. Shea, is composed of 17 members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Committee members and other participants).

TYPE OF MEETING: Open.

Agenda

November 22, 1991

8:15 a.m.—Opening Remarks.
8:30 a.m.—Welcome/Fiscal Year 1992 Budget Status.
9:30 a.m.—Feedback from NAC on Integrated Technology Plan.
10 a.m.—Chief Executive Officer s Responses.
10:45 a.m.—Discussion of SSTAC Recommendations on Integrated Technology Plan External Review.
1 p.m.—Discussion of Technology Testbeds.
3 p.m.—Ad Hoc Activities Update
4 p.m.—Summary Session.
4:15 p.m.—Adjourn.

Dated: October 24, 1991

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91–26131 Filed 10–29–91; 8:45 am]

BILLING CODE 7510–01–M

[Notice 91–95]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee.

DATES: November 6, 1991, 8:30 a.m. to 5:30 p.m.; November 7, 1991, 8:30 a.m. to 6:30 p.m.; and November 8, 1991, 8:30 a.m. to 3 p.m.

ADDRESSES: The National Aeronautics and Space Administration, 600 Independence Avenue, SW., room 226A, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1430).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (0SSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Committee will meet to discuss the 0SSA program status, Fiscal Year 1992 budget overview, open issues from the Woods Hole Planning Workshop, committee membership, and

future issues. The Committee is chaired by Dr. Berrien Moore and is composed of 25 members. The meeting will be closed to the public from 5:30 p.m. to 6:30 p.m. on November 7, 1991, for a discussion of the qualifications of additional candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this discussion will be concerned with matters listed in 5 U.S.C. 552b(c) (6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the capacity of the room (approximately 50 persons including Committee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

TYPE OF MEETING: Open—except for a closed session as noted in the agenda below.

Agenda

Wednesday, November 6
- 8:30 a.m.—Committee Business.
- 9:15 a.m.—OSSA Status Report and FY 1992 Budget Overview.
- 11:30 a.m.—Committee Plans for Next Year.
- 1:15 p.m.—Microgravity Science Presentations.
- 2:15 p.m.—Open Issues from the Woods Hole Planning Workshop.
- 4:30 p.m.—Committee Discussion with the Deputy Administrator.
- 5:30 p.m.—Adjourn.

Thursday, November 7
- 8:30 a.m.—Committee Business.
- 8:45 a.m.—Earth Observing System Engineering Review Committee Report.
- 9:45 a.m.—Streamlined Research Grants Process.
- 11 a.m.—Sounding Rocket Program Commercialization.
- 1:15 p.m.—Subcommittee Reports.
- 3:30 p.m.—Strategic Issues in a Constrained Budget Climate.
- 5:30 p.m.—Closed Session.
- 6:30 p.m.—Adjourn.

Friday, November 8
- 8:30 a.m.—Writing Group Work Sessions.
- 10:45 a.m.—Committee Discussion of Writing Group Material.
- 1 p.m.—Committee Discussion with the Associate Administrator.
- 3 p.m.—Adjourn.

Dated: October 24, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-26132 Filed 10-29-91; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-27]

Finding of No Significant Impact and Notice of Opportunity for a Hearing Renewal of Special Nuclear Material; Babcock & Wilcox Co., Naval Nuclear Fuel Division, Lynchburg, VA

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License No. SNM-42 for the continued operation of the Babcock & Wilcox Company, Naval Nuclear Fuel Division (NNFD), located in Lynchburg, Virginia.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is the renewal of the license necessary for NNFD to continue operations. Principal operations include the fabrication of highly enriched nuclear fuel elements and assembly of these elements into complete reactor cores for the U.S. Navy, fabrication of elements or cores for research and test activities and research related to manufacturing of fuel elements, and recovery of uranium from scrap materials. A variety of radiological and nonradiological gaseous, liquid, and solid wastes are generated. After treatment, some of the wastes are released to the environment.

The Need for the Proposed Action

The NNFD operation primarily supports the U.S. Navy propulsion program including fuel loading and subsequent refueling of ship reactors. The demand for this operation will continue in order to maintain at least the present fleet operation. If the operation of the NNFD is discontinued, another facility will have to be used in order to meet the national security needs of the U.S. Navy.

Environmental Impacts of the Proposed Action

The NNFD presently employs 24 stacks for release of gas streams potentially containing radioactive material and 8 stacks for release of gas streams containing only non-radioactive materials. Most gaseous streams are passed through some combination of high efficiency particulate air filtration and scrubbing prior to release; some streams are released without treatment. Liquid waste streams are routed to the Waste Treatment Facility. The liquid is treated and discharged to the James River.

NNFD conducts an effluent and environmental monitoring program to demonstrate compliance with appropriate environmental protection standards and to provide, where possible, site-specific data to assist in the prediction of environmental impacts. The NNFD program includes sampling the liquid and gaseous discharges, ambient air stations, surface water, soil, sediment, vegetation, and ground water.

Radiological impacts of the plant were assessed using the average release of the isotopes U-234 and U-235 for the years 1988 and 1989. These two isotopes dominate the dose analysis, and the average releases for 1988 and 1989 are considered to be a reasonable yet conservative projection of the average annual release for the future years. Tissue and effective doses were estimated using the AIRDOS-PC methodology for both the site boundary and nearest residence locations. The maximally exposed individual is assumed to reside at the nearest residence, which is located about 1,100 meters west-southwest from the plant stacks. Doses were also calculated for an individual at the site boundary, which is about 540 meters west-southwest from the emission points. Doses resulted from the combined air inhalation, ingestion, air immersion, and contaminated ground surfaces pathways. At the site boundary and the nearest residence, the effective doses were 0.12 and 0.046 mrem, respectively. The highest tissue or organ dose was to the lungs. The estimated lung dose was 0.82 and 0.31 mrem at the site boundary and nearest residence, respectively. Maximum individual doses to the nearest resident from airborne and liquid effluents were calculated. The total effective dose was 0.05 mrem/yr, and the maximum tissue dose was 0.31 mrem/yr to the lungs. The total dose is a small fraction of the dose limit (500 mrem/yr) for unrestricted areas specified in 10 CFR 20.105(a) of the Commission's regulations, and it is also a small fraction of the limits for release of radionuclides specified by the Environmental Protection Agency in its regulation, 40 CFR part 61, subpart I (25 mrem/yr for whole body, 75 mrem/yr for body organs). (Note that 40 CFR part 61, subpart I, published in the **Federal Register** on March 7, 1989, on page 9652 has not become effective.) The effective dose equivalent resulting from the combined emissions from the NNFD, the Commercial plant, and the Research Lab is estimated at 0.05 mrem. The cumulative dose is well below the 25 mrem permitted by 10 CFR part 20, § 20.105(c), which incorporates the

provisions of EPA's standards in 40 CFR part 190 (the Commercial plant is subject to 40 CFR part 190). Therefore, the staff concludes there is no adverse impact to the maximally exposed individual from the release of radioactivity from plant operations.

The collective dose to the surrounding population as a result of routine airborne effluents from NNFD is estimated at less than 0.3 person-rem/yr. For comparison, this amounts to less than 0.0002 percent of the effective dose to the same population from natural background sources, about 150,000 person-rem/yr. The population dose, calculated for the population bordering the James River for 80 kilometers northeast of the site who are assumed to utilize the river water as the primary source of drinking water, was 0.05 person-rem/yr.

Conclusion

The staff concludes that the environmental impacts associated with the proposed license renewal for continued operation of the NNFD are expected to be insignificant. To evaluate future impacts, NNFD will continue the environmental monitoring program. The staff concludes that there will be no significant impacts associated with the proposed action. The staff does recommend, however, that NNFD:

(1) Place a treatment system on the preparation room stack and the chemistry laboratory stack;

(2) Transfer the liquid effluent from the sanitary waste stream to the hot acid equalization pond;

(3) Inform the NRC within 30 days if the State-permitting agency revokes, supersedes, conditions modifies, or otherwise nullifies the effectiveness of the State-issued NPDES permit for the discharge of liquid effluents;

(4) Inform the NRC within 30 days of any violation of the NPDES permit;

(5) Compare the daily effluent results to the appropriate action level;

(6) Summarize the environmental monitoring data in order to observe trends and identify possible problem areas in the program;

(7) Add the cold equalization basin and Bryants pond to the sediment sampling program; and

(8) Develop and submit for NRC review and approval a ground water monitoring program for the hot and cold equalization basins to detect potential pond leakage.

Alternatives to the Proposed Action

Alternatives to the proposed action include complete denial of NNFD's renewal application. Not granting a license renewal for the facility would cause NNFD to cease fuel manufacturing at this site. This alternative has not been considered because issues of public health and safety have been resolved. The only benefits to be gained by nonrenewal would be the cessation of the minor environmental impacts from operation of the NNFD site. Because the nuclear fuel is a necessary product for the U.S. Naval Reactor Program, denial of a license for NNFD would result in the transfer of the fuel production and associated environmental impacts to an alternative site.

Agencies and Persons Consulted

Staff utilized the environmental reports dated March 1989, September 1990, and February 26, 1991; the application dated July 1989; and additional information dated February 15, 1991. Discussions were held with the following Commonwealth of Virginia agencies: The Department of Waste Management, Department of Health, Air Pollution Control Board, and the Water Control Board.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License No. SNM–42. On the basis of this assessment, the Commission has concluded that environmental impacts that would be created by the proposed licensing action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW., Washington, DC.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this license renewal may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); on the licensee (Babcock & Wilcox, Naval Nuclear Fuel Division, P.O. Box 785, Lynchburg, VA 24505–0785); and must comply with the requirements for requesting a hearing set forth in the Commission's regulation, 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings."

These requirements, which the requestor must describe in detail, are:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing;

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for hearing is timely, that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 21st day of October, 1991.

For the Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 91–26135 Filed 10–29–91; 8:45 am]

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Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 7–9, 1991, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on September 20, 1991.

Thursday, November 7, 1991

8:30 a.m.–8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.–9:45 a.m.: General Electric Advanced Boiling Water Reactor (Open/Closed)—The Committee will hear a subcommittee report and discuss selected features of the GE ABWR plant, including auxiliary and power conversion systems, conduct of operations, radioactive waste management, and the Reactor Water Cleanup System. Representatives of the NRC staff and

the General Electric Company will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

10 a.m.–12 Noon. Level of Design Detail (Open)—The Committee will hear comments by designated subcommittee chairmen and will discuss the level of design detail needed to conduct a licensing review per 10 CFR part 52. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

1 p.m.–3:45 p.m.: Yankee Rowe Nuclear Power Plant (Open/Closed)—The Committee will review issues related to the Yankee Rowe reactor pressure vessel integrity and its impact on plant operations. Representatives of the NRC staff and the licensee will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information and/or Classified Information applicable to this matter.

3:45 p.m.–4:45 p.m.: Generic Issue 121, "Hydrogen Control for PWR Dry Containments" (Open)—The Committee will hear a briefing and discuss the NRC staff's proposed resolution of this generic issue. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

4:45 p.m.–5:30 p.m.: Future ACRS Activities (Open)—The Committee will discuss anticipated subcommittee activities, items proposed for consideration by the Committee, and related matters.

5:30 p.m.–6:30 p.m.: Key Technical Issues for Future Nuclear Power Plants (Open)—The members will discuss key technical issues applicable to future nuclear power plants that are in need of early resolution.

Friday, November 8, 1991

8:30 a.m.–10 a.m.: Reactor Operating Experience (Open)—The Committee will hear a briefing and discuss recent operating events and experience at nuclear power plants, including the August 13, 1991 loss of uninterruptable power supplies which occurred at the Nine Mile Point Nuclear Station. Representatives of the NRC staff and nuclear industry will participate, as appropriate.

10:15 a.m.–12 Noon. Severe Accident Research Program (Open)—The Committee will hear a briefing and discuss the status of the NRC severe accident research program. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

1 p.m.–2 p.m.. Westinghouse Standardized Nuclear Plant AP–600 (Open/Closed)—The Committee will hear a briefing and discuss the research and testing needs for this PWR passive plant design. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter

2 p.m.–3 p.m.. ACRS Subcommittee Activities (Open)—The Committee will hear and discuss the status of assigned subcommittee activities, including the November 6, 1991 subcommittee meeting on steam generator tube degradation and the subcommittee meeting (November 6, 1991) on procedures for planning and conduct of ACRS activities.

3 p.m.–4:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

4:30 p.m.–5:30 p.m.: Key Technical Issues (Open)—The members will discuss key technical issues applicable to future nuclear plants that are in need of early resolution and an appropriate mechanism to resolve them.

Saturday, November 9, 1991

8:30 a.m.–12 Noon: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting and topics that were not completed at previous meetings as time and availability of information permit.

1 p.m.–2:30 p.m.: Miscellaneous (Open)—The Committee will complete discussion of issues considered during this meeting and issues that were not completed at previous meetings as time and availability of information permit. Administrative items related to the conduct of Committee business will also be discussed, as appropriate.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1991 (56 FR 49800). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered consistent with 5 U.S.C. 552b(c)(4) and Classified information consistent with 5 U.S.C. 552b(c)(1).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 8 a.m. and 4:30 p.m.

Dated: October 24, 1991.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 91–26136 Filed 10–29–91; 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 October 7, 1991 through October 18, 1991. The last biweekly notice was published on October 16, 1991 (56 FR 51921).

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 November 29, 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.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests. August 28, 1991

Description of amendment requests: The proposed amendments would revise Section 6, "Administrative Controls," of the Technical Specifications for the Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2, and 3, to define the lines of functional responsibility and accountability more clearly and better describe technical and review activities.

Basis for proposed no significant hazards consideration determination. As required by 10 CFR 50.91(a), the licensees have provided their analysis about the issue of no significant hazards consideration, which is presented below:

Standard 1 — Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification amendment does not involve a significant increase in the probability of an accident previously evaluated because the changes are purely administrative in nature. The changes are based on either organizational restructuring or clarifications. The organization has been changed to be consistent with the objectives of achieving clearly defined responsibilities, authorities and accountabilities. The changes are designed to address improvements identified as a result of operating experiences with the current organization as well as organizational and management related issues identified by internal and independent evaluations. An example is the change requested to paragraph 6.4.1. The General Manager, Training is responsible for the training organization only, whereas Director, Site Services was responsible for several diverse organizations.

Additionally, the General Manager, Training reports directly to the Vice President, Nuclear Production. Another example is that by eliminating the position of Plant Director, the V.P., Nuclear Production will assume direct responsibility for day to day operation of PVNGS. This change also eliminates one layer of management and provides for more direct communications with the plant operations. An additional change proposes to replace the Nuclear Safety Group with the Offsite Safety Review Committee. Previously, the offsite review function was conducted by the Nuclear Safety Group and reviews were conducted by staff personnel. The majority of the reviews will now be performed by a subcommittee and the results reported to the committee. A portion of the Nuclear Safety Group staff will be utilized by the Offsite Safety Review Committee to perform review and assessments of station activities. The remaining changes involve title changes, positions being eliminated from the organization and clarifications to various sections to more fully describe the process.

The changes as proposed will not affect equipment important to safety nor will facility operation be changed. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Standard 2 — Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated because there are no changes in the way the facility is being operated. The changes are administrative which reflect a re-organization and also clarify various sections in the Administrative Controls portion of the Technical Specifications. An additional change would have changes to the radioactive waste systems reported to the Commission during the period in which the change was implemented not when the evaluation was reviewed by the PRB. This proposed change would ensure that the flow of information to the Commission is consistent with the implementation of the changes. The proposed changes are administrative and as such the potential for an unanalyzed accident is not created. Therefore, the proposed Technical Specification change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3 — Involve a significant reduction in a margin of safety

The proposed Technical Specification amendment does not involve a significant reduction in a margin of safety The changes are administrative in nature and will not affect the operation of the facility. The organizational changes are designed to improve performance of both production and service functions, and to more clearly define lines of functional responsibility and accountability. The remaining changes consist mainly of various nomenclature or clarification changes. The newly formed Offsite Safety Review Committee will have the responsibility for the overall review of station activities which would increase management's involvement in the review and assessment process. Therefore, the proposed changes do not involve a significant reduction in a margin of safety

The NRC staff has reviewed the licensees' analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location. Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees. Arthur C. Gehr, Esq., Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073

NRC Project Director: Theodore R. Quay

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests. September 9, 1991

Description of amendment requests. The licensee proposes to remove the automatic closure interlock (ACI) for the shutdown cooling valves to make the shutdown cooling system more reliable Accordingly, the technical specifications would be revised to delete the surveillance requirement for this interlock.

Basis for proposed no significant hazards consideration determination. As required by 10 CFR 50.91(a), the licensees have provided their analysis about the issue of no significant hazards consideration, which is presented below:

Standard 1 — Involve a significant increase in the probability or consequences of an accident previously evaluated. The ACI is intended to ensure that the low pressure piping of the SDCS [shutdown cooling system] is properly isolated from the RCS [reactor coolant system] pressure during startup operations. The reason for removing the ACI is to minimize potential loss of the SDCS due to inadvertent actuation. Protection of the SDCS from an overpressure condition will still be provided by the OPI [open permissive interlock], which is designed to prevent opening of its associated isolation valve whenever system pressure is greater than 410 psia. Other protective

features are the LTOP [low temperature overpressure protection] provided by the SDCS relief valves, individual valve position indication, and alarms to notify operators of valve misposition. As shown from the CE Owners Group Report [CE NPSD-550, Risk Evaluation of Removal of Shutdown Cooling System Auto-Closure Interlock], removal of the ACI results in only a negligible increase (0.09%) in the calculated probability of an ISLOCA [interfacing system loss of coolant accident] event in contrast to a 39% increase in the SDCS and LTOP availability with a corresponding decrease in risk associated with loss of SDCS and LTOP events. Therefore, the proposed amendments will not increase the probability or consequences of an accident previously evaluated.

Standard 2 — Create the possibility of a new or different kind of accident from any accident previously evaluated. SDCS overpressure and loss of decay heat removal are the only accidents that removal of the ACI impacts. The ACI is intended to ensure that the low pressure piping of the SDCS is properly isolated from the RCS pressure during startup operations; it does not protect against hardware failure. The valve position alarms will warn against both operator error and hardware failure. The ACI does not protect against a rapid overpressure transient since the stroke times of these large motor operated valves are too long compared to a pressure transient event. The possibility of a loss of decay heat removal is reduced by this change because the potential of the SDCS isolation valves being closed by a spurious signal will be eliminated. No other failure modes are introduced by ACI removal. Therefore, the proposed amendments will not create the possibility for a new or different kind of accident from any accident previously evaluated.

Standard 3 — Involve a significant reduction in a margin of safety. Protection of the SDCS from an overpressure condition will still be provided by the OPI, which is designed to prevent opening of its associated isolation valve whenever system pressure is greater than 410 psia. Other protective features are the LTOP provided by the SDCS relief valves, individual valve position indication, and alarms to notify operators of valve misposition.

Based on the above discussion, the proposed amendments will not involve a significant reduction in a margin of safety

The NRC staff has reviewed the licensees' analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees. Arthur C. Gehr, Esq., Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073

NRC Project Director: Theodore R. Quay

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: August 23, 1991

Description of amendment request: Technical Specification (TS) Section 4.0.1.c currently allows surveillance intervals to be extended up to 25 percent of the specified interval, but limits the combined time interval for any three consecutive surveillance intervals to less than 3.25 times the specified surveillance interval. The proposed change removes the 3.25 limitation for the three consecutive intervals from the specification in accordance with the guidance provided by Generic Letter 89-14.

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 change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because there is no physical change or alteration to the facility that could cause the probability of an accident to increase. In addition, removal of the 3.25 combined interval limit enhances safety by reducing the potential of a forced shutdown or performing surveillance during unsuitable plant conditions.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the design of the facility and system operating parameters are not changing. Surveillance intervals are not changing and will continue to be limited to the 25% extension.

3. The proposed amendment does not involve a significant reduction in the margin of safety because surveillance frequencies will retain the 25% extension limit which is an acceptable extension tolerance, as documented in Generic Letter 89-14, sufficient to ensure the reliability of equipment. Maintaining equipment in a reliable condition does not introduce a reduction in any margin of safety.

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. Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee. R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments. October 2, 1991

Description of amendments request: The proposed amendment requests that the requirements of the February 29, 1980, Confirmatory Order issued to Zion Station be deleted and that the Technical Specifications be revised to incorporate several of the requirements which currently exist in the order.

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:

Regarding the deletion of Confirmatory Order Items A.3, A.7, B.2, C.4, D.2, E.1.b, E.1.d, and F.3:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware or operating procedure changes. The requirements being removed are not assumed to be initiators of analyzed events and are not assumed in the mitigation of design basis transients or accidents. The requirements of these items have been completed. In addition, the requirements, with the exception of the local leak rate test requirements of Item A.3, will continue to be maintained after removal of the Confirmatory Order since adequate control of the requirements will be provided by regulations, and the Zion Station Technical Specifications. The NRC has considered the specific regulations and Technical Specifications to be sufficient for addressing these requirements including local leak rate test requirements. Therefore, this change is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change will not significantly reduce a margin of safety because it has no impact on any safety analysis assumptions. The proposed change deletes requirements that have already been completed. In addition, regulations and Technical Specifications will ensure these requirements continue to be met. Therefore, this change is administrative in nature and has no impact on a margin of safety.

Regarding the deletion of Confirmatory Order Items A.4, A.6, and F.5:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not result in any hardware or operating procedure changes. The requirements being removed are not assumed to be initiators of analyzed events and are not assumed in the mitigation of design basis transients or accidents. The requirements of these Confirmatory Order Items have been completed. In addition, the Confirmatory Order Item requirements will continue to be required to be met since they are adequately addressed by Technical Specification, regulations, modifications and procedures. These requirements will be adequately maintained by established control mechanisms. Therefore, this change is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumption. The proposed change is administrative in nature. The Confirmatory Order Item requirements will continue to be required to be met. Any changes to these requirements will be evaluated by the NRC (for changes to requirements in regulations or Technical Specifications) or per 10 CFR 50.59 (for changes to requirements addressed by modifications or in procedures). The 10 CFR 50.59 control mechanism ensures that changes will not adversely affect a margin of safety. In addition, the 10 CFR 50.59 process used to control changes to procedures or modifications is more stringent in that more conservative questions than those asked by the 10 CFR 50.92 process must be addressed. Therefore, this change does not involve a significant reduction in a margin of safety.

Regarding the deletion of Confirmatory Order Items B.1, E.1.e, and E.1.g:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware or operating procedure changes. The requirements being removed are not analyzed events and are not assumed in the mitigation of design basis transients or accidents. The removal of the Confirmatory Order does not remove the requirements imposed by the Confirmatory Order. These requirements have been implemented through procedures and modifications and will be maintained. The control process for procedures and modifications is 10 CFR 50.59 and ensures the requirements are adequately maintained. Therefore, this change is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change will not reduce a margin of safety because it has no impact on safety analysis assumptions. The proposed change is administrative in nature and adequate assurance is provided that the requirements will continue to be required to be met. Any change to these requirements will be evaluated per 10 CFR 50.59. This control mechanism ensures that changes will not adversely affect a margin of safety. In addition, the 10 CFR 50.59 process used to control changes to the requirements is more stringent in that more conservative questions than those asked by the 10 CFR 50.92 process must be addressed. Therefore, this change does not involve a significant reduction in a margin of safety.

Regarding the deletion of Confirmatory Order Items B.3, D.1, and F.2:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware or operating procedure changes. The requirements being removed are not assumed to be initiators of analyzed events and are not assumed in the mitigation of design basis transients or accidents. The removal of the Confirmatory Order does not remove the requirements imposed by the Confirmatory Order. These requirements have been implemented through the emergency plan and its procedures and will be maintained. Adequate control of these requirements is assured through regulations. These regulations, including the control provisions of 10 CFR 50.54(q), ensure the effectiveness of the emergency plan is not degraded. Therefore, this change is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. The proposed change is administrative in nature and other existing regulations ensure the current effectiveness of the emergency plan is maintained. The Confirmatory Order requirements will continue to be required to be met. Any changes to the requirements will be evaluated per 10 CFR 50.54(q). This control mechanism ensures that changes will not adversely affect a margin of safety. Therefore, this change does not involve a significant reduction in a margin of safety.

Regarding the deletion of Confirmatory Order Items B.5, B.7, and B.8:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware or operating procedure changes. The requirements being removed are not assumed to be initiators of analyzed events and are not assumed in the mitigation of design basis transients or accidents. The removal of the Confirmatory Order does not remove the requirements imposed by the Confirmatory Order. The requirements have been implemented within the required time frame. The requirements for operator training and qualifications have been reviewed and approved by the NRC. In addition, INPO accreditation for the operator training programs has been received. The removal of the Confirmatory Order will not degrade the Zion Station operator training and requalification program. Requirements for operator training programs are governed by 10 CFR 55. In addition, operator training and requalification programs are adequately maintained by the requirements of 10 CFR 50.54(i) and 10 CFR 50.59, as applicable. Therefore, this change is considered administrative in [sic] nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. The

proposed change is administrative in nature and other existing regulations ensure the current scope of the operator training and requalification programs is maintained. The Confirmatory Order requirements will continue to be required to be met. Any changes to these requirements will be evaluated per 10 CFR 50.54(i) and 10 CFR 50.59, as applicable. These control mechanisms ensure that changes will not adversely affect a margin of safety. Therefore, this change does not involve a significant reduction in a margin of safety.

Regarding the deletion of Confirmatory Order Items C.1, C.2, C.3, E.1.a, E.1.f, E.2, F.1, F.4.a, F.4.b, and F.4.c:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware or operating procedure changes. The requirements being removed are not assumed to be initiators of analyzed events and are not assumed in the mitigation of design basis transients or accidents. The Confirmatory Order Item requirements were satisfactorily completed and no requirement remains active. Therefore, this change is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumption. In addition, the proposed change deletes requirements that have been satisfactorily completed. Therefore, the change is administrative in nature and has no impact on a margin of safety.

Regarding the deletion of Confirmatory Order Item C.5:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not result in any hardware or operating procedure changes. Operating Experience Program, Safety Assessment Function, and Nuclear Safety Function requirements are not assumed to be initiators of any analyzed event and are not assumed in the mitigation of design basis transients or accidents. The removal of Confirmatory Order Item C.5 will not reduce commitments associated with the Zion Station Operating Experience Program, Safety Assessment Function, and Nuclear Safety Function since the requirements had been met within the required time frame and are currently governed by administrative procedures and the Quality Assurance Manual. In addition, the Operating Experience Program, Safety Assessment Function, and Nuclear Safety Function requirements are adequately maintained by 10 CFR 50.54(a) and 10 CFR 50.59. Therefore, this change is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in the margin of safety?

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. The proposed change is administrative in nature. Commitments regarding the Operating Experience Program, Safety Assessment Function, and Nuclear Safety Function are adequately maintained. The Confirmatory Order Item requirements will continue to be required to be met. Any changes to these requirements will be evaluated per 10 CFR 50.54(a) and 10 CFR 50.59. These control mechanisms ensure that changes will not adversely affect a margin of safety.

Regarding the transfer of Confirmatory Order Item A.5 requirements to the Technical Specifications:

1. Does the change involve a significant increase in the probability or consequence of an accident previously evaluated?

The proposed change involves the addition of Surveillance Requirements which will require verification that RHR and SI pressure isolation check valves be additionally leak tested when RCS pressure is reduced to within 100 psig of the system design pressure. Since the proposed changes will serve to ensure the reliability of the RHR and SI pressure isolation check valves in providing overpressure protection, accident initiators, accident assumptions, and offsite dose consequences will not be affected. Therefore, this change does not involve a significant increase in the probability or consequences of an an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change, which involves the addition of Surveillance Requirements on the RHR and SI system pressure isolation check valves, does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The additional Surveillances proposed by this change provide added assurance that the RHR and SI systems are adequately protected from overpressurization from RCS leakage and can be relied upon during accident conditions. Furthermore, the overall reliability of RHR and SI system pressure isolation check valves will be maintained since the proposed Surveillances provide additional criteria for when leak testing of these valves is required; and the proposed surveillances incorporate requirements of the Confirmatory Order Item A.5 and recommendations of the Westinghouse Standard Technical Specifications, Revision 4. Therefore, this change does not involve a significant reduction in a margin of safety.

Regarding the transfer of Confirmatory Order Item B.4 requirements to the the Technical Specifications:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not result in any hardware changes. The valves used for Containment Purging and Venting are not assumed to be initiators of any analyzed event. These valves are assumed to close in order to mitigate the consequences of design basis accidents. This Technical Specification provides for more conservative operation of the Zion Nuclear Generating Station than was previously imposed by Confirmatory Order Item B.4 requirements in that specific actions and surveillance requirements have been provided. The actions assure that adequate compensatory measures are taken to assure radiation releases in the event of a design basis accident are bounded by the safety analysis. The surveillance requirements are provided to ensure the restrictions on valve operation are maintained. In addition, the restriction on valve opening angle has been analyzed and ensures that the Containment Purge Supply and Purge Exhaust isolation valves will close under severe Containment pressurization conditions which may be experienced during a design basis accident. The acceptability of the valves being open at the beginning of a design basis accident has been evaluated and shown not to result in doses to the public in excess of the 10 CFR 100 guidelines. Further restrictions on Purge and Pressure and Vacuum Relief penetration openings will limit the amount of time that the valves may be open and eliminate a combination of release pathways so that a radioactive release via these pathways is minimized. Therefore, no increase in the probability or consequences of an accident previously evaluated is involved with replacing Confirmatory Order Item B.4 requirements with the requirements of this proposed Technical Specification.

2. Does the change create the possibility of a new or different kind of accident from an accident previously analyzed?

The proposed change does not necessitate a physical alteration of the plant (no new or different equipment will be installed). The change does provide different requirements for valves used for containment purging and venting. However, the restrictions imposed on the Purge valve opening angle does not prevent them from performing their previously analyzed intended isolation

function. The acceptability of the valves being open at the beginning of a design basis accident has been evaluated to be within the design basis of the Zion Nuclear Generating Station as cited in the Updated Final Safety Analysis Report (UFSAR). The restriction on the Purge and Pressure and Vacuum Relief penetration allowable open time will limit the amount of time they may be open to provide a release pathway and is within the bounds of previously analyzed events. The restriction on the simultaneous opening of the Purge and Pressure and Vacuum Relief penetrations precludes the existence of multiple release paths and serves to limit the magnitude of a potential release through these pathways in the event of a design basis accident. Therefore, these proposed new Technical Specification requirements, along with the proposed actions and surveillances, serve to ensure that the bounds of previous analyses are conservatively maintained and does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does this change involve a significant reduction in the margin of safety?

The addition of the restrictions on Purge valve and Pressure and Vacuum Relief line operation provides increased margin in that the new Technical Specification imposes restrictions which did not previously exist. Some restrictions, previously in effect due to Confirmatory Order Item B.4, are maintained. Other restrictions are not maintained since the OPERABILITY of the valves had been satisfactorily demonstrated and as a result the restrictions were no longer needed to ensure plant operation remains within the bounds of the safety analysis. Therefore, this proposed Technical Specification change does not involve a significant reduction in the margin of safety, but rather provides for an increase in the margin of safety when compared to the requirements of Confirmatory Order Item B.4.

Regarding the transfer of Confirmatory Order Items E.1.a and E.1.h requirements to the Technical Specifications:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change involves the addition of LCO (Limiting Condition for Operation) and Surveillance Requirements which will require periodic verification that no loose debris is present in the containment which could be transported to the containment sump and cause restriction of the ECCS pump suctions during LOCA conditions and periodic verification that sump components have not degraded. Additional LCO and Surveillances are proposed which will verify the proper positions of valves in the ECCS flow paths. Since the proposed changes will serve to enhance the reliability of the ECCS flow path and overall plant safety, accident initiators, accident assumptions, and offsite dose consequences will not be affected. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change, which involves the addition of LCO and Surveillance Requirements on the containment sump and valves in the ECCS flowpath, does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The additional LCOs and Surveillances proposed by this change will provide added assurance that the ECCS flow path can be relied upon during accident conditions. Furthermore, the overall reliability of ECCS system flow paths will be enhanced since the proposed changes incorporate requirements of the Confirmatory Order Items E.1.a and E.1.h and recommendations of the WSTS for Surveillances on valves in ECCS system flow paths and on the containment sump. Therefore, this change does not involve a significant reduction in a margin of safety.

Regarding the transfer of Confirmatory Order Item E.1.c requirements to the Technical Specifications:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware or operating procedure changes. The requirements being removed are not assumed to be initiators of analyzed events and are not assumed in the mitigation of design basis transients or accidents. The Bases clarification of Specification 3.0.5 which ensures the cross-train check of the turbine-driven AFW pump is performed is consistent with Item E.1.c of the Confirmatory Order and the Westinghouse Standard Technical Specification. The requirements of the Confirmatory Order will therefore continue to be maintained since adequate control will be provided by the Zion Technical Specifications. The NRC has considered the Technical Specifications to be sufficient for addressing these requirements. Therefore, this change is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Zion Nuclear Generating Station.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change will not significantly reduce a margin of safety since it has no impact on a margin of safety. The requirements of Confirmatory Order Item E.1.c are adequately addressed in the Technical Specifications. Technical Specifications will ensure these requirements continue to be met. Therefore, this change is administrative in nature and has no impact on a margin of safety.

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: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: September 25, 1991

Description of amendment request: This amendment would revise the Grand Gulf Nuclear Station Technical Specifications to allow the use of a new main hoist grapple mast on the refueling platform.

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. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

The only accident evaluations affected by the proposed changes are those associated with the Fuel Handling Accident analyses presented in UFSAR [Updated Final Safety Analysis Report] 15.7.4 and 15.7.6. The drop of a spent fuel assembly onto other spent fuel assemblies in either the reactor vessel or the upper containment storage racks is no more likely with the new design. The NF500 mast functions identically to the old mast when grappling, lifting, or moving a fuel assembly. It does not degrade platform design features such as grapple fail-safe on loss of air, dual lifting cables, backup cable reel brake, and the grapple engaged loaded interlock, all of which serve to protect against a fuel drop event. It is more rigid than the previous mast design and, therefore, is less prone to mast bowing. The consequences of dropping a fuel assembly are also unaffected. Since the weight of the mast is not considered in the FHA [Fuel Handling Analysis] analysis, the increased weight of the NF500 mast has no impact on analysis results. The number of postulated fuel pins which fail as a result of the FHA is unaffected since the energy imparted by the dropped assembly is independent of the mast design, and

mitigating systems will function as previously assumed.

The drop of a nonfuel load onto spent fuel assemblies addressed in 15.7.4 is also no more likely as a result of this change. While the combined weight of a fuel assembly and its associated handling tool, which is the definition of a heavy load by NUREG-0612 and the GGNS FSAR [Grand Gulf Nuclear Station Final Safety Analysis Report] is being increased above the current 1140 pound value enforced by TS [Technical Specifications] 3/4.9.7, GGNS has conservatively elected not to increase this TS limit. This ensures that the TS continues to prohibit movement of nonfuel loads over spent fuel in excess of those analyzed to be acceptable. Should such a drop occur, the consequences, therefore, remain unchanged. Retention of the ability to use the NF400 mast also does not present any changes since it is currently approved for use.

Thus, the probability or consequences of a previously analyzed accident are not significantly increased by the proposed change.

2. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

No new failure modes are introduced as a result of the proposed changes. The NF500 mast is intended as an exact replacement for the currently installed mast, and it is designed to match or exceed the strength and performance of the NF400 mast in all areas. No new fuel handling methods or surveillance procedures will be necessary as a result of installation of the new mast. The proposed limits will still ensure that the protective interlocks are initiated as required. Limits on fuel travel in all directions are unchanged. Retaining the ability to use the NF400 mast presents no new accident possibilities since this has already been analyzed for its current use.

Therefore, there is no possibility of a new or different kind of accident from any previously analyzed.

3. This change would not involve a significant reduction in the margin of safety.

Safety margin is established through the GGNS safety analyses as reflected in the Technical Specifications and Bases. The proposed jam cutoff and hoist loaded interlocks merely account for the increased weight of the mast and still provide the intended protection as discussed in the Bases. Other interlocks associated with the platform are unaffected. No margins or assumptions related to the fuel bundle drop analyses are changed and the new mast has the same single failure protection as the old mast.

Following this license amendment the allowed combined weight of a fuel assembly and its associated handling tool, which is the definition of a heavy load provided by NUREG-0612, is increased and would allow an increase in the current 1140 pound value enforced by TS 3/4.9.7. GGNS has conservatively elected not to increase this TS limit. This ensures that the TS continues to prohibit movement of nonfuel loads over spent fuel in excess of those analyzed to be acceptable and does not result in a reduction to the margin of safety. Thus, the assumptions and margins of the nonfuel drop accident evaluation are unaffected by this change.

Retaining the ability to use the NF400 mast is consistent with the existing approved TS and presents no decrease in margin since the interlock limits will be appropriately set for the mast in use.

Thus, the proposed changes do not involve a significant reduction in the margin of safety.

Based on the above, Entergy Operations, Inc. concludes that these proposed changes do not involve a significant hazards consideration.

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: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: John T. Larkins

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: September 17, 1991

Description of amendment request: These amendments would make line-item improvements to the Turkey Point Unit 3 and Unit 4 Technical Specifications in accordance with Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions."

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. Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment[s] [do] not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change does not result in any physical change to the facility which could cause an increase in the probability or consequences of any accident previously evaluated. The requested change incorporates the alternative snubber visual inspection schedule provided by the [s]taff in Generic Letter 90-09, dated December 11, 1990. As determined by the [s]taff, the alternative schedule for visual inspections maintains the same confidence level as the existing schedule and, therefore, does not affect the probability or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment[s] would not create the possibility of a new or different kind of accident previously evaluated.

The proposed amendment[s] [do] not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment[s] [do] not result in any physical change to the plant or method of operating the plant from that allowed by the Technical Specifications. No new failure modes have been defined for any system or component nor has any new limiting single failure been identified. The [s]taff has previously reviewed the proposed changes and determined that the alternative snubber visual inspection interval maintains the same confidence level in snubber operability. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

3. Use of modified specification would not involve a significant reduction in the margin of safety.

The proposed amendment[s] [do] not involve a significant reduction in the margin of safety. As stated above, the proposed amendment[s] [incorporate] the alternative Technical Specification requirements for visual inspections of snubbers provided by the [s]taff in Generic Letter 90-09. The [s]taff has previously reviewed these changes and determined that the alternative visual inspection interval maintains the same confidence level in snubber operability. Therefore, the proposed amendment[s] [do] not involve a reduction in the margin of safety.

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: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: September 20, 1991

Description of amendment request: The amendment would remove the component lists from Section 3.7 of the Technical Specifications in accordance with the guidance set forth in Generic

Letter 91-08, "Removal of Component Lists from Technical Specifications."

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 amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The removal of the component lists from the Technical Specifications (TS) will not alter the existing TS requirements nor change the components to which they apply. The requirements for primary containment integrity and Type B & C testing will remain the same. No physical changes are being made to the facility as a result of removing the component lists. The editorial changes to the TS will not affect the probability or consequences of an accident in any way. Therefore, the proposed amendment does not involve a change in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. The removal of component lists will not alter existing TS requirements or those components to which they apply. No physical changes are being made to the facility as a result or in support of the removal of the component lists. Since the requirements for the components will remain the same, this proposed amendment will not affect the outcome of previously evaluated accidents. The editorial changes to the TS will not affect the previously evaluated accidents. Therefore, this proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. This proposed amendment does not involve a significant reduction in the margin of safety. The removal of the component lists from TS will not alter the existing TS requirements nor change the components to which they apply. The component lists will be incorporated into plant procedures that are subject to the change control provisions for plant procedures in the Administrative Controls Section of the TS. Since the same components are subject to the same requirements the margin of safety is not affected. The editorial changes made to refine the TS will not affect the margin of safety. Consequently, the proposed amendment does not involve a significant reduction in the margin of safety.

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: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: May 13, 1991

Description of amendment request: The proposed amendment would modify the Maine Yankee Radiological Effluent Technical Specifications (RETS) in response to NRC guidance provided in Generic Letter 89-01. As recommended in the NRC guidance, procedural details currently found in the RETS are to be relocated to the Offsite Dose Calculation Manual (ODCM), with programmatic controls incorporated into the Administrative Controls section of the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to Technical Specifications 5.2 and 5.3 have been evaluated against the standards of 10 CFR 50.92, and have been determined not to involve a significant hazards consideration. Therefore, implementation of the changes would:

1. Not involve a significant increase in the probability or consequences of an accident previously evaluated.

Neither plant accident conditions or licensee assumptions are affected by the proposed Technical Specification changes. The proposed changes do not involve a test, experiment, or a modification to a system. The proposed changes are administrative in nature and do not increase the probability of occurrence of an accident previously evaluated. The changes made to the RETS have been made following the guidance provided in Generic Letter 89-01. The programmatic portions of the original RETS will be placed in Administrative Technical Specification 5.8, with the procedural details of the original RETS to be transferred to the Off-site Dose Calculation Manual (ODCM). The only changes that have been made are changes in organization. No changes have been made to the programmatic or procedural requirements of the original RETS. Minor editorial changes were made to complete reorganization of the affected specifications.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated.

Neither plant accident conditions nor licensee assumptions are affected by the proposed Technical Specification changes. The proposed changes do not involve a test or experiment, or a modification to a system, and do not affect any plant equipment or operating procedures that could create the possibility of a different or previously unevaluated accident. The proposed changes are administrative in nature. All accidents remain bounded by previous analyses and no new accidents are involved.

3. Not involve a significant reduction in a margin of safety.

The proposed Technical Specification changes do not affect any operating practices or limits, nor any equipment or system important to safety. The proposed changes are administrative in nature and will not reduce any margin of safety.

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: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: September 20, 1991

Description of amendment request: The proposed amendment would authorize an increase in the maximum allowable water temperature limit of Lake Ontario (ultimate heat sink) for 77° F to 81° F. This increase would be implemented by changes to Technical Specifications and associated Bases 3.1.4/4.1.4 (Core Spray System), 3.3.2/4.3.2 (Pressure Suppression Pressure and Suppression Chamber Water Temperature and Level), and 3.3.7/4.3.7 (Containment Spray System).

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 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment involves increasing the lake water temperature limit from 77° F to 81° F. This also involves increasing the minimum downcomer submergence to 3.5 feet and reducing raw

water initiation time to 15 minutes. Figures 3.3.2a,b have been deleted and replaced by 3.5 feet downcomer submergence and suppression pool temperature of 85° F. All safety related components cooled by lake water system have been evaluated and been found to be able to perform their intended function under normal operation, shutdown, abnormal and accident conditions with a lake water temperature of up to 81° F. Further, the proposed change does not adversely affect the environmental qualification of any plant equipment.

Operability of the containment spray system assures that FSAR [Final Safety Analysis Report] design criteria associated with the maximum suppression chamber water temperature are satisfied. In summary, increasing the lake water temperature limit to 81° F will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change in maximum downcomer submergence to 4.25 feet also ensures that the plant will be operated consistent with the Mark I Plant Unique Analysis.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Safety-related systems and components remain within their applicable design limits. Thus, system and component performance is not adversely affected by this change, thereby assuring that the design capabilities of those systems and components are not challenged in a manner not previously assessed so as to create the possibility of a new or different kind of accident.

The reduction in maximum downcomer submergence reflects the Mark I Plant Unique Analysis. In addition, the environmental qualification of plant equipment is not adversely affected by this amendment, further assuring that components are not challenged in a manner not previously assessed. In summary, the proposed change does not create the possibility of a new or different kind of accident from any previously assessed.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed changes will not cause existing Technical Specification operational limits or systems performance criteria to be exceeded. Safety related systems and components remain operable within the applicable design limits at this higher lake water temperature.

The change in maximum downcomer submergence is to be in accordance with the Mark I Plant Unique [Analysis] for Nine Mile Point Unit 1. This has been previously reviewed by the NRC during the Mark I Long Term Implementation Program and found acceptable as documented in a safety evaluation dated January 22, 1985.

The DBR analysis of suppression chamber heatup post LOCA [loss-of-coolant accident] demonstrates that the maximum torus water temperature associated with a maximum lake temperature of 81° F, coupled with the revised torus level and temperature limits, is less than the current maximum torus water temperature using existing torus level limits and a maximum lake water temperature of 77° F when calculated on an equivalent basis.

Finally, based on historical information, the lake water can be expected to approach the design limit of 81° F on an infrequent basis.

Based upon the above, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's no significant hazards analysis and the licensee's safety analysis submitted in support of the proposed amendment. According to the licensee's safety analysis, increasing the minimum downcomer submergence from three feet to three and one half feet, decreasing the containment spray raw water initiation time from 30 minutes to 15 minutes, and limiting the suppression pool water temperature to a maximum of 85° F compensates for the increase in maximum allowable lake water temperature from 77° F to 81° F. Based on review of the licensee's no significant hazards analysis and the safety analysis submitted in support of the proposed amendment, 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: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

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: January 16, 1991; supplemented October 10, 1991. This notice supersedes the notice published on February 20, 1991, (56 FR 6880) in its entirety.

Description of amendment request: The proposed amendment would remove Table 3.7-1, "Primary Containment Isolation Valves" and delete any references to it from the Technical Specifications (TS). The table is a listing of all isolation valves on piping which penetrate the primary containment, corresponding penetration numbers, the isolation signal which will cause the valve to close, the minimum allowable closing time (if any), the normal position of the valve, and amplifying information for a few penetrations. Specifically, the proposed change would: (1) delete the reference to Table 3.7-1 from the List of Tables on page vi; (2) replace the tables and notes on pages 198 through 209 with a note stating that the pages have been deleted; (3) delete an erroneous reference to a list of containment isolation valve closure times in Bases 4.7.D from page 196; (4) delete references to Table 3.7-1 from pages 185 and 186; and (5) include appropriate administrative changes to Bases pages 55, 56, 192, and 197. The proposed amendment reflects the guidance included in NRC Generic Letter 91-08, "Removal of Component Lists from Technical Specifications," dated May 6, 1991.

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 James A. FitzPatrick Nuclear Power Plant in accordance with this proposed amendment would not involve a significant hazards consideration, as defined in 10 CFR 50.92, since the proposed changes would not:

1. involve a significant increase in the probability of an accident or consequence previously evaluated. Changes to the list of containment isolation valves will be controlled by incorporating the list in a plant procedure subject to the provisions of Section 6.8(B) of the Technical Specifications. The relocation of this information from the Technical Specifications is purely an administrative change. It will have no effect on how the plant is maintained or operated nor does it alter the plant's design. Federal regulations 10 CFR 50.59 and 10 CFR 50.71 already contain provisions that require the Authority to complete a safety evaluation of any changes to the plant and to report these changes annually.

Changes to Bases 4.7.D are purely administrative in nature and have no effect on the probability or consequences of an accident.

2. create the possibility of a new or different kind of accident from those previously evaluated. The relocation of the containment isolation valve table and changes to the bases do not involve a modification to the plant or a change in the procedures used for plant operation.

3. involve a significant reduction in the margin of safety. A similar table will be included in a plant procedure subject to the change control provisions for plant procedures in the Administrative Controls Section of the FitzPatrick Technical Specifications. The list of containment isolation valve closure times was removed as part of a prior amendment. This amendment does not alter any operability or surveillance requirements currently in the FitzPatrick Technical Specifications.

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

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: October 3, 1991

Description of amendment request: The proposed changes would revise the NA-1&2 Technical Specifications (TS) to ensure that the design basis is met for the service water system. The NA-1&2 service water system is common to both reactor units and is designed for the simultaneous operation of various subsystems and components of both units. The purpose of the service water system is to provide long-term cooling after a loss-of-coolant accident (LOCA) and to supply cooling water to various safety-related components during normal plant operation.

The proposed changes are being made as a result of an NRC violation regarding the NA-1&2 service water system. In the Notice of Violation dated February 1, 1991, the NRC identified that the operating procedures for the service water system were not adequate to ensure design basis flows to the recirculation spray heat exchangers during periods when a service water pump is inoperable. The licensee's response to the Notice of Violation dated March 1, 1991, committed to changing the NA-1&2 TS to clarify service water system operability/requirements. The resulting proposed changes enhance the availability of the service water system and ensure that design basis flows are available to the recirculation spray heat exchangers. The proposed changes further ensure the availability of shutdown cooling by requiring one operable service water loop when both units are in Modes 5 or 6.

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 have no adverse impact upon potential accident probability or consequence. The proposed changes enhance the availability of the service water system and ensure design basis flows are available to the recirculation spray heat exchangers. The proposed changes further ensure the availability of shutdown cooling by requiring one OPERABLE service water loop when both units are in Modes 5 or 6. No new or unique accident precursors are introduced by these changes to the [TS] requirements. In fact, the clarification of the [TS] to accurately portray the current design basis for the service water system will decrease any potential accident probability or consequence that may occur as a result of inaccurate or incomplete information that may be currently in the [TS]... Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes to the [TS] [constitute] additional limitations not presently included in the [TS] thereby making the [TS] more stringent. The proposed changes enhance the availability of the service water system and ensure design basis flows are available to the recirculation spray heat exchangers. The proposed changes further ensure the availability of shutdown cooling by requiring one OPERABLE service water loop when both units are in Modes 5 or 6. Operation with these changes does not create probability for any accident which has not already been evaluated in the Updated Final Safety Analysis Report (UFSAR). In fact, these changes are to modify the [TS] to be consistent with the design basis. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The results of the UFSAR accident analyses continue to bound operation under the proposed changes. The proposed changes enhance the availability of the service water system and ensure design basis flows are available to the recirculation spray heat exchangers. The proposed changes further ensure the availability of shutdown cooling by requiring one OPERABLE service water loop when both units are in Modes 5 or 6. The proposed changes to the [TS] ensure consistency with the UFSAR design basis and result in additional limitations not currently included in the [TS]. Therefore, the [m]argins of [s]afety are maintained without reduction.

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: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 2321?

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: October 3, 1991

Description of amendment request: The proposed change would revise the NA-1&2 Technical Specifications (TS) requirement for preservice inspection of steam generator (SG) tubes by removing the restriction that the preservice inspection be performed after the field hydrostatic pressure test. The NA-1&2 TS Surveillance Requirements 4.4.5.1 through 4.4.5.5 describe an augmented inservice inspection program which is required to be performed in conjunction with the inservice inspection requirements of Section XI of the ASME Boiler and Pressure Vessel Code, "Rules for Inservice Inspection of Nuclear Power Plant Components," 1983 Edition, Summer 1983 Addenda (applicable to NA-1), and 1986 Edition (applicable to NA-2). The combination of these inspection programs serve to demonstrate the operability of the NA-1&2 SGs. As part of the augmented inspection program, TS 4.4.5.4.a.9 requires that an inspection of the full length of each tube in each SG be performed by eddy current techniques prior to service to establish a baseline condition of the tubing. This surveillance requirement further specifies that the preservice inspection be performed after the field hydrostatic test and prior to initial power operation using the equipment and techniques expected to be used during subsequent inservice inspection. The purpose of the proposed change is to revise the NA-1&2 TS requirement for preservice inspection of SG tubes by removing the unnecessary restriction that the preservice inspection be performed after the field hydrostatic pressure test.

The purpose for proposing this TS change at this time is to reduce the dose impact and schedular impact of the preservice inspection on the NA-1 SG replacement project to take place in 1993. The impact of this change is limited to the schedule for performing the preservice inspection of the SG tubes. However, in all cases, the preservice inspection must be performed prior to returning the unit to service. The NRC has previously allowed this baseline inspection philosophy to be

included in the TS of other operating nuclear power plants.

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 has no adverse impact upon probability or consequences of any accident previously evaluated. The proposed [TS] change does not change the intent of the surveillance requirement. Only the schedule for conducting the baseline examination of the replacement [SG] tubing is changed. The preservice inspection of the tubes of the replacement [SGs] will still be performed prior to placing [the] replacement [SGs] into service. The preservice inspection will continue to provide reasonable assurance that subsequent inservice inspections will provide evidence of structural degradation of the tubes. This proposed schedular change does not reduce the effectiveness of the eddy current baseline inspection. The shop-performed eddy current examinations will be performed after the required ASME Section III hydrostatic pressure test. Subsequent to installation of the replacement [SGs], system hydrostatic pressure tests must be performed in accordance with ASME Section XI. These test pressures are substantially less than the Section III hydrotest and will not affect the results of the baseline eddy current examinations. The proposed change does not affect the assumptions, design parameters, or results of any [Updated Final Safety Analysis Report (UFSAR)] accident analysis and the proposed amendment[s] [do] not add or modify any existing equipment. Therefore, no new or unique accident precursors are introduced by this change in surveillance requirements.

2. Does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed revision to the [TS] will not result in any physical alteration to any plant system, nor would there be a change in the method by which any safety-related system performs its function. The absence of any hardware or software changes indicates that the accident initiators remain unaffected, so no unique accident possibility is created. Since the proposed change to the surveillance requirements affects only the schedule for the preservice inspection and the preservice inspection will still be required prior to returning the unit to service, operation of the facilities with this proposed [TS] change does not create the possibility for any new or different kind of accident which has not already been evaluated in the...(UFSAR).

3. Does not involve a significant reduction in a margin of safety. The results of the accident analyses which are documented in the UFSAR have not been affected by this proposed change to the [SG] tubing preservice inspection surveillance requirements. In addition, the design and operation of the [SGs] are not affected by the change and the operability of the [SGs] will continue to be demonstrated by the augment[ed] inservice inspection requirements of the [TS]. Although the change allows the rescheduling of the preservice inspection, the proposed amendment[s] [continue] [to] ensure that the preservice inspection of each tube in each [SG] will be performed. Therefore, the operability of each [SG] will continue to be verified by inservice inspections. Since equipment reliability will be maintained, the proposed [TS] change will not involve a significant reduction in a margin of safety.

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: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: June 28, 1991

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) for the Washington Nuclear Plant No. 2 (WNP-2), relocating the Radiological Effluent TS (RETS) to the the Offsite Dose Calculation Manual (ODCM) or the Process Control Program (PCP), as appropriate. The proposed change is in accordance with the guidance provided in NRC Generic Letter (GL) 89-01, dated January 31, 1989, which stated that the NRC would approve the deletion of RETS from the TS if the requirements were relocated to the ODCM or PCP.

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 staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

Operation of the facility in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because relocating the RETS to the ODCM or the PCP is strictly an administrative change that does not reduce or modify any existing safety requirement or procedure; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident scenario is created and no previously evaluated accident scenario is changed by relocating procedural requirements from one controlled document to another; or

(3) Involve a significant reduction in a margin of safety because no modification of any plant structure, system, component, or operating procedure is associated with this administrative change and all safety margins remain unchanged.

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: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Previously Published Notices of Consideration of Issuance of Amendments To Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: September 24, 1991

Brief Description of amendments: The proposed amendments would change Technical Specification 4.8.H.2.b(2), which defines a differential temperature

criteria for the control room emergency filtration system heater. The proposed change establishes a differential temperature requirement based upon flow, consistent with the design basis of the system.

Date of individual notice in **Federal Register:** October 16, 1991 (56 FR 51937)

Expiration date of individual notice: November 15, 1991

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: October 10, 1991

Brief description of amendment request: This amendment would separate the surveillance requirements (Surveillance 4.8.1.1.2.g) associated with the buried fuel oil transfer piping's cathodic protection system from those used to determine diesel generator operability.

Date of publication of individual notice in **Federal Register:** October 17, 1991 (56 FR 52078)

Expiration date of individual notice: November 18, 1991

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

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.

Carolina Power & Light Company, et al., Docket No. 50-325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: August 22, 1991, as supplemented September 10, 1991

Brief description of amendment: The amendment changes the Technical Specifications to allow a one-time-only extension of the 7-day allowed out-of-service time (AOT) for one inoperable diesel generator for each of Diesel Generator Numbers 3 and 4, to a 14-day AOT for one inoperable diesel generator for each of Diesel Generator Numbers 3 and 4 during the Unit 2 refueling outage No. 9.

Date of issuance: October 7, 1991

Effective date: October 7, 1991

Amendment No.: 155

Facility Operating License No. DPR-71: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** September 4, 1991 (56 FR 43803) The September 10, 1991, letter did not change the action noticed in the Federal Register on September 4, 1991, and did not affect the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 7, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: June 4, 1991

Brief description of amendments: This amendment modifies the Technical Specification (TS) requirements for the Anticipated Transient Without Scram - Recirculation Pump Trip (ATWS-RPT) to reflect improvements made to the logic and instrumentation system. The maximum allowed outage time will be reduced from 14 days to 72 hours.

Date of issuance: October 8, 1991

Effective date: October 8, 1991

Amendment Nos.: 79 and 63

Facility Operating License Nos. NPF-11 and NPF-18. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37578). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 8, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Duquesne Light Company, et. al., Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of application for amendment: April 2, 1990.

Brief description of amendment: The amendment modifies the Appendix A Technical Specifications (TSs) for the pressurizer safety valves. Specifically, the amendment adds additional actions to be taken if a pressurizer safety valve has discharged liquid water due to an overpressure event.

Date of issuance: October 15, 1991

Effective date: October 15, 1991

Amendment No. 39

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 30, 1990 (55 FR 21969). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

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 application for amendments: May 6, 1991

Brief description of amendments: The amendments 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.

Date of issuance: October 15, 1991

Effective date: October 15, 1991

Amendment Nos.: 161 and 40

Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 21, 1991 (56 FR 41581) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 15, 1991. No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: February 25, 1991

Brief description of amendment: The amendment revised Arkansas Nuclear One, Unit 2 Technical Specification (TS) 3/4.1.1.3 and the associated bases to reduce the required minimum flow rate of the reactor coolant through the reactor coolant system from 3000 gpm to 2000 gpm. The amendment also revised the applicable pump for this TS from "low pressure safety injection pump" to "low pressure safety injection pump or containment spray pump" for use in shutdown cooling.

Date of issuance: October 16, 1991

Effective date: 30 days after date of issuance

Amendment No.: 126

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20035) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendment: September 13, 1991, as supplemented September 30, 1991

Brief description of amendments: The amendment revised the Hatch Unit 2 Technical Specification 3.3.6.6 on Traversing Incore Probe Operability Requirements for the current cycle (Cycle 10) only.

Date of issuance: October 10, 1991

Effective date: October 10, 1991

Amendment No.: 115 (Unit 2)

Facility Operating License No. NPF-5. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 24, 1991 (56 FR 48218) The September 30, 1991, letter modified the TS such that the reduction in detectors would apply to Cycle 10 only. This change was within the scope of the action noticed and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 10, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 10, 1990, as supplemented July 8, 1991

Brief description of amendments: The amendments revise the Administrative Controls and make editorial changes to the Technical Specifications and Environmental Technical Specifications.

Date of issuance: October 15, 1991

Effective date: October 15, 1991

Amendment Nos.: 175 & 116

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1990 (55 FR 53070) The July 8, 1991 letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 15, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

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: June 3, 1991

Brief description of amendments: The amendments modify the Technical Specifications to allow use of up to two Westinghouse VANTAGE-5 fuel assemblies, each containing no more than twelve (12) fuel rods clad with ZIRLO™.

Date of issuance: October 4, 1991

Effective date: October 4, 1991

Amendment Nos.: 47 and 26

Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1991 (56 FR 29277) The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated September 25, 1991, and a Safety Evaluation dated October 4, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: December 27, 1989

Brief description of amendments: The amendments change the operating license expiration dates in response to your application dated December 27, 1989, as revised April 4, 1990, extending the expiration dates from 40 years from date of construction permit issuance to 40 years from date of operating license issuance.

Date of issuance: October 1, 1991

Effective date: October 1, 1991

Amendments Nos.: 157 and 141

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the operating license.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12596). The information provided in the licensee's April 4, 1990 revision corrected the expiration date by two days and was not outside the scope of the initial notice. The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated September 20, 1991 and in a Safety Evaluation dated October 1, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: February 13, 1990

Brief description of amendment: The amendment revised the Technical Specifications by adding new limiting condition for operation 3.14.E and associated bases. The changes increase the limit on the quantity of radioactive material contained in low-level liquid radwaste tanks.

Date of issuance: October 9, 1991

Effective date: October 9, 1991

Amendment No.: 178

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31438) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: July 18, 1991

Brief description of amendment: The amendment changed the Technical Specifications to reflect a planned change in the Reactor Building Isolation and Standby Gas Treatment Initiation radiation monitor logic from one-out-of-two to one-out-of-two-taken-twice, clarify the operability requirements for the radiation monitors, and correct several typographical/editioral deficiencies.

Date of issuance: October 10, 1991

Effective date: October 30, 1991

Amendment No.: 147

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 4, 1991 (56 FR 43809) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 10, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: January 24, 1991

Brief description of amendment: The proposed amendment sought to add a Digital Channel Operational Test (DCOT) definition to Section 1 of the Technical Specifications (TS) and to revise the footnotes for TS Tables 4.3-5 and 4.3-6 to reflect the proposed DCOT definition.

Date of issuance: October 10, 1991

Effective date: October 10, 1991

Amendment No.: 7

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24217) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: June 17, 1991.

Brief description of amendments: These amendments revise Technical Specification (TS) 3/4.7.1.2 and associated Bases to identify that the Auxiliary Feedwater System (AFW) performs a dual function in an event which requires steam generator isolation and secondary heat removal. A new section is being added to address the operation of the AFW system when the steam generators are being used for decay heat removal. Additionally, a clarification to Surveillance Requirements 4.7.1.2.1.b.1 and 4.7.1.2.1.b.2 is provided to more accurately depict the functional testing performed every refueling outage to confirm that the AFW pumps will start upon receipt of an EFAS.

Date of issuance: October 1, 1991

Effective date: October 1, 1991

Amendment Nos.: 99 and 88

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31443) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: August 16, 1991

Brief description of amendments: These amendments delete references to the movable in-core detector system in Technical Specifications 3.3.3.2, "In-Core Detectors," and 3/4.8.4, "Electrical Equipment Protection Devices" (Table 3.8-1, "Containment Penetration Conductor Overcurrent Protective Devices"). The licensee will rely on the fixed in-core detector system rather than the moveable in-core detector system to map neutron flux in the core.

Date of issuance: October 9, 1991

Effective date: October 9, 1991

Amendment Nos.: 100 and 89

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 4, 1991 (56 FR 43813) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 9, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: December 5, 1990, as supplemented by letter dated August 16, 1991.

Brief description of amendment: The amendment removes two of six alternative diesel generator (DG) start

signals that can be used to demonstrate operability of the DGs. These two start signals currently start the DGs on loss of the preferred power supply. With the modification, the DGs will start only if the alternate offsite power source fails to repower the switchgear. The change still provides the alternative of performing the surveillance using one of the four remaining DG start signals. The design change is being made to eliminate unnecessary starts of the DGs after loss of the preferred offsite power supply with the alternate offsite power supply still available.

Date of Issuance: October 4, 1991

Effective date: October 4, 1991; to be implemented within 7 days of issuance.

Amendment No.: Amendment No. 3

Facility Operating License No. NPF-87. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 6, 1991 (56 FR 4873) The August 16, 1991, submittal provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room Location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 11, 1990

Brief description of amendment: The amendment deleted the specific title designations of seven of the eight members of the Onsite Review Committee from Technical Specification 6.5.1.2.

Date of issuance: October 8, 1991

Effective date: October 8, 1991

Amendment No.: 63

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 4, 1991 (56 FR 43815) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 8, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: March 19, 1991

Brief description of amendment: The amendment revised Technical Specification Tables 3.3-1, 4.3-1, 3.3-3 and 4.3-2 and the associated Bases to extend the allowable out-of-service times (AOTs) and the surveillance test intervals (STIs) for the analog channels of the Engineered Safety Features Actuation System (ESFAS). Extended AOTs have also been approved for the ESFAS logic and actuation relays of the solid state protection system.

Date of issuance: October 9, 1991

Effective date: October 9, 1991

Amendment No.: 64

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24221) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: June 1, 1990

Brief description of amendment: Corrects errors, deletes obsolete material and corrects format inconsistencies.

Date of issuance: October 7, 1991

Effective date: October 7, 1991

Amendment No. 131

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications and License.

Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30315) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 7, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: September 7, 1989

Brief description of amendments: The amendments changed the frequency requirement for testing turbine stop and governor valves from monthly to annually. The amendments also made non-substantive changes to the requirements for maintaining meteorological data.

Date of issuance: October 16, 1991

Effective date: October 16, 1991

Amendment Nos.: 129 and 133

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 29, 1989 (54 FR 49140) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 16, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Notice of Issuance of Amendment To Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for

public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By November 29, 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.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, 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 the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendment: October 11, 1991 (TS 91-17)

Brief description of amendment: This amendment revises Technical Specification Surveillance Requirement 4.8.1.1.2.d.3 related to the voltage overshoot limits resulting from a full load reject test of the emergency diesel generators from 114 percent and 8276 volts to 120 percent and 8712 volts, respectively.

Date of issuance: October 18, 1991

Effective date: October 18, 1991

Amendment No.: 154 for Unit 1; 144 for Unit 2

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 18, 1991.

Public commments requested: No

T3Attorney for the licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

NRC Project Director: Frederick J. Hebdon

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

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 91-25989 Filed 10-29-91; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. STN 50-483]

Union Electric Company, (Callaway Plant Unit No. 1); Exemption

I.

The Union Electric Company (the licensee), is the holder of Facility Operating License No. NPF-30 which authorizes operation of the Callaway Plant, Unit No. 1. The license provides, among other things, that it is subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect.

The facility consists of a pressurized water reactor located at the licensee's site in Callaway County, Missouri.

II.

In its letter dated March 15, 1991, the Union Electric Company (the licensee) requested three exemptions from the requirements of appendix J to 10 CFR part 50. Since each exemption request addresses different sections of appendix J and two of these were submitted with corresponding revisions to related portions of the Callaway Technical Specifications (TSs), each is being considered separately. The subject item (Item 3 of the letter of March 15, 1991) is a request for an exemption from the requirements of Section III.A.5.(b)(2). This section establishes an acceptance criterion for the total measured containment leakage rate, L_{am}, measured at the peak containment internal pressure, P_a, calculated for the design basis accident. Since the periodic Type A tests at Callaway are conducted at P_a, the acceptance criterion for these tests is that L_{am} be less than 75 percent of the maximum allowable leakage rate, L_a, as specified in TS 3.6.1.2.a; this value is 0.20 percent by weight of the containment air per 24 hours.

The licensee has proposed in Item 3 of its letter dated March 15, 1991 to establish two conditions for determining the acceptability of the periodic Type A tests. The first is the "as found" Type A condition represented by the leakage rate calculated by adding the differences between the "as found" and "as left" measured local leakage rates from each Type B and Type C test to the leakage rate measured in the Type A test. These Type B and Type C tests are usually conducted prior to conducting the Type A test. In the event that potentially excessive leakage paths are identified which would interfere with the satisfactory completion of a periodic Type A test and such paths are isolated during the test, the Type B or Type C "as found" leakage rates measured on the isolated penetrations after the completion of the Type A test are added in to the Type A "as found" leakage rate total. The "as left" condition is rcpresented by the periodic Type A leakage rate after any required repairs and/or adjustments are made.

The licensee's specific proposal for the revised acceptance criteria in lieu of the present single criterion cited above (i.e., L_{am} less than 0.75 L_a), is that the "as found" allowable leakage rate should be L_a and the "as left" allowable leakage rate should be less than 0.75 L_a.

The licensee's basis for this proposal is that the acceptance criterion for L_{am} was established in appendix J as 0.75 L_a in order to provide a margin of 25 percent (i.e., 0.25 L_a) to account for possible deterioration of the reactor primary containment leak-tightness between the periodic Type A tests. The licensee also states the value of L_a is the actual leakage rate assumed in the accident analyses in chapter 15 of the Final Safety Analysis Report (FSAR). (Refer to Item 111.2.2 of Table 15A-1 of the Callaway FSAR). The licensee further states that there Is no need for the 25 percent margin at the end of a Type A test interval to account for deterioration during this interval.

The NRC staff finds that the licensee's proposal for the acceptance criterion for the "as found" maximum allowable leakage rate of L_a is acceptable on the basis that, throughout the prior Type A test interval, the reactor primary containment leakage would have been at or below the value required in the Callaway TSs and within the value assumed in the accident analyses in the Callaway FSAR. Furthermore, the licensee's proposal continues to maintain the requirement that the reactor primary containment (i.e., the "as left" condition) leakage rate prior to

restart of the plant be reestablished as less than 0.75 L_a.

The NRC staff further finds that there is added assurance that there will not be any significant undetected degradation in the reactor primary containment leakage during each Type A test interval in that the primary contributors to potentially excessive leakage paths will be measured during the required Type B and Type C tests. These latter tests will be conducted at least during each 18–month refueling outage but in no case at intervals greater than 2 years (sections III.0.2 and III.D.3 of appendix J). The principal contributors to any deterioration in the containment leakage rate would thereby be detected and corrected at least once during the 36–month Type A test interval and at least twice during the 54–month Type A test interval.

The staff agrees that the subject exemption request does not pose any undue risk to public health and safety in that the licensee will continue to demonstrate the containment overall integrated leak rate will be less than its specified value in the Callaway Technical Specifications prior to restart after a refueling outage using the present acceptance criterion of 0.75 L_a. Further, any potentially excessive leakage paths will continue to be repaired and/or adjusted prior to restart and at intervals of 18 months, thereby continuing to ensure the integrity of the containment. Based on these considerations, the staff concludes that the licensee has proposed acceptable alternative criteria for the leak-tightness of the reactor primary containment which will ensure its integrity with respect to its compliance with the maximum permissible containment leakage rate specified in the Callaway TSs. Accordingly, the licensee has demonstrated that its proposed modified Type A test procedure achieves the underlying purpose of the rule, thereby demonstrating that one of the special circumstances of 10 CFR 50.12(a)(2)(ii) is present.

III.

In summary, the NRC staff finds that the licensee has demonstrated for the subject exemption request that there are special circumstances present as required by 10 CFR 50.12(a)(2). Further, the staff also finds that the protection provided by the licensee against potentially excessive containment leakage will not present an undue risk to the public health and safety.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption as described in section II is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the exemption with respect to the requirements of 10 CFR part 50, appendix J, section III.A.5(b)(2).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the subject exemption will not have a significant effect on the quality of the human environment (56 FR 43623).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 22nd day of October 1991.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91–26134 Filed 10–29–91; 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: November 14, 1991 from 1:30 p.m. to 2:15 p.m.

PLACE: The meeting will be held in the Indian Treaty Room of the Old Executive Office Building (OEOB), Washington DC 20500.

FOR FURTHER INFORMATION CONTACT: 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 session on November 14, the Council will receive updates and reports from its National Coalition Committee and its DrugFree Workplace Committee.

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.

William S. Smith,

Acting Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 91–26118 Filed 10–29–91; 8:45 am]

BILLING CODE 3180–02–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–29851; File No. SR–Amex–91–25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to New Listing Standards for Emerging Growth Companies

October 23, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 1, 1991, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the Company Guide by adding a new section establishing listing criteria for an Emerging Company Marketplace ("ECM").[1] The ECM will be a new marketplace designed to accommodate the listing of promising growth companies which are too small to meet the Exchange's regular listing criteria.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of

[1] The exact text of the proposal was attached to the rule filing as Exhibit A and is available at the Amex and the Commission at the address noted in Item IV below.

these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Amex has long played an active role in fostering capital formation for mid-size companies. Listing on the Amex provides these companies with a liquid, efficient auction market (a function of the last-sale based auction market) and a variety of services which raise their profile in the investment community. The net effect for these issuers is a lowered cost of capital.

Promising growth companies traded over-the-counter, which are too small to satisfy the Amex's present listing criteria, are unable to take advantage of these benefits. At the same time, a lack of credit and heightened global competition have made the environment in which these companies operate increasingly difficult. The Exchange believes that it can address directly the needs of these companies by developing an "incubator" marketplace or ECM. As set forth below, the ECM will have both objective and subjective screening criteria.

Listing criteria. Under the Amex proposal, companies presently traded in the National Association of Securities Dealers ("NASD") Automated Quotation ("NASDAQ") system, which satisfy that marketplace's new financial maintenance criteria,[2] will be eligible to apply to list on the ECM, provided they also have a public float of at least 250,000 shares and outstanding shares with a total market value of at least $2,500,000. In addition, other companies which are not presently trading on NASDAQ that satisfy the NASD's new financial original listing criteria [3] will also be eligible to apply to list on the ECM, provided they have a public float of at least 250,000 shares and outstanding shares with a total market value of at least $2,500,000. This is to ensure that only those issues which have attracted significant investor interest are eligible to list. In addition, the Amex also proposes alternate listing criteria to each of the above two standards for slightly smaller issuers with a larger market capitalization. The proposed numerical guidelines are as follows:

NUMERICAL CRITERIA

				Original		Maintenance (All)
				Companies not presently traded in NASDAQ	Companies presently traded in NASDAQ	
	Regular	Alternate	Regular	Alternate	Regular	Alternate
Total Assets	$4M	$3M	$2M	$2M	$2M	$2M
Capital & Surplus	$2M	$2M	$1M	$2M	$1M	$2M
Total Mkt Value	$2.5M	Over $10M	$2.5M	$2.5M	$500,000	$1M
Public Float	250,000 shs	400,000 shs	250,000 shs	250,000 shs	250,000 shs	250,000 shs
Public Shareholders	300	300	300	300	300	300
Minimum Price	$3	$2	$1	Below $1	$1	Below $1

A company applying to list on the ECM would be reviewed (as would any candidate for regular listing on the Exchange) by the financial analysts in the Exchange's Corporate Finance and Analysis area. If the staff member's review is favorable for a company, then the application of that company would be submitted to a new "blue ribbon" committee to be appointed by the Exchange for the express purpose of making final listing determinations on these issuers. Members of this committee would have expertise in evaluating the prospects and trading characteristics of small growth-oriented issuers.

Companies which survive this screening process would not, however, benefit from the exemption afforded normally under state "blue sky" laws to offerings of securities listed on a primary exchange. The Amex is committed to working with the North American Securities Administrators Association ("NASAA") to develop appropriate approval language so that these issuers would continue to remain fully subject to state merit review. Preliminary discussions between NASAA officials and Exchange staff have already been initiated.

Once listed, ECM issuers would be subject to a variety of governance requirements. For example, they would be required to file annual and quarterly reports with the Exchange (and the Commission) and would otherwise be held to the same standards of corporate disclosure as are other Amex-listed companies. They would also have to solicit proxies and hold annual shareholder meetings for the election of directors.

Trading environment. Companies listed in the ECM would be allocated to a specialist unit and traded in the same way as regular Amex-listed equity issuers. The quality of the specialist unit's performance would be considered in evaluating its eligibility for further allocations on both the primary and secondary list.

Specialists would be required to post firm quotations in these issues. Most importantly, all Amex trades would be reported via the Consolidated Tape Association ("CTA") on a real time, last-sale basis, and the Amex expects that closing prices and volume would be published in all newspapers which carry the Amex stock table. The Amex anticipates that ECM companies will have a readily identifiable data tag so that they can be distinguished on the

[2] On August 30, 1991, the Commission approved a proposal by the NASD which raised the association's criteria for initial and continued inclusion on the NASDAQ system. See Securities Exchange Act Release No. 29638 (August 30, 1991), 56 FR 44106 (September 6, 1991) (approving File No. SR-NASD-90-18). Specifically, for initial inclusion in NASDAQ, the NASD raised its total assets and capital and surplus requirements from $2,000,000 and $1,000,000 to $4,000,000 and $2,000,000, respectively. The NASD also added a new minimum price per share requirement of $3 and a new requirement that the market value for publicly held shares be at least $1,000,000. The NASD left unchanged its requirements that issuers have a public float of 100,000 shares, two market makers, and 300 public shareholders. For continued inclusion on NASDAQ, the NASD raised its total assets and capital and surplus requirements from $750,000 and $375,000 to $2,000,000 and $1,000,000, respectively. In addition, for continued inclusion, the NASD also added a new minimum price per share requirement of $1 (or $1,000,000 in market value and capital and surplus of $2,000,000) and a new requirement that the market value of outstanding shares be at least $200,000.

[3] See *id.*

Tape from other Amex issues, and the Exchange intends to work with vendors and newspapers to attempt to secure separate presentation of the ECM list.

Last sale reporting will enable the Exchange's Stock Watch Department to monitor, on a real-time basis, all Amex transactions in the issues and facilitate the Exchange's ability to assure compliance with its disclosure policies. In addition, the Exchange would apply all of its post-trade surveillance procedures to these transactions.

Transfer to regular list/delisting. The Exchange is hopeful that companies which reach financial maturity on the ECM will eventually choose to become regular Amex-listed companies. Such companies will be required to make application to list on the Exchange in the same form as would other prospect companies.

If an ECM-listed company fails to adhere to the maintenance listing criteria, it will be provided prompt written notice of such deficiency. Companies with a deficiency in market value or price for 10 consecutive trading days shall have 90 days thereafter in which to comply with the continued listing requirements. Companies with a deficiency in any other continued listing requirement shall be immediately subject to delisting in accordance with the procedures set forth in part 10 of the Company Guide.

Listing fees. Companies applying to list on the ECM will pay an original listing fee of $5,000. The fee will not be cnarged to any company which is approved for listing prior to the date on which the ECM's inaugural trades take place. If an ECM company later applies to join the Exchange's primary list, it will receive a credit for the ECM original listing fee. Annual listing fees for ECM issuers will be computed using the same schedule which applies to regular Amex-listed companies.

(2) Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is intended to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, the proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will remove or lessen existing burdens on competition in that it will give smaller issuers an additional option to choose from in selecting a marketplace for the trading of their securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-91-25 and should be submitted by November 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26074 Filed 10-29-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29841; International Series Release No. 333; File No. SR-ISCC-91-01]

Self-Regulatory Organizations; International Securities Clearing Corporation; Order Approving Proposed Rule Change Regarding the Global Clearance Network Service

October 18, 1991.

On May 30, 1991, the International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-ISCC-91-01) under section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposed rule change appeared in the **Federal Register** on June 27, 1991.[2] No comments were received. ISCC amended the proposed rule change on August 13, 1991.[3] This Order approves the ISCC proposal, as amended.[4]

I. Description

The proposed rule change adds Rule 50 to ISCC's Rules. New Rule 50 establishes a Global Clearance Network Service, whereby ISCC may establish foreign clearing, settlement, and custody services in conjunction with banks and trust companies, and qualified ISCC members may execute an agreement with ISCC to use the services. Rule 50 further provides that ISCC members may be required to guarantee to ISCC any fees which ISCC guarantees to the bank or trust company for the services. As part of the proposed rule change, ISCC proposes to use rule 50 to establish

[1] 15 U.S.C. 78(b).

[2] Securities Exchange Act Release No. 29351 (June 27, 1991), 56 FR 29504.

[3] Amendment No. 1 proposes to change ISCC Rule 8 to make it clear that ISCC's software program, Global Compass, may be used to access not only foreign financial institutions (pursuant to links established under ISCC Rule 40), but also banks and trust companies (pursuant to arrangements under ISCC Rule 50).

[4] As of the date of this Order, ISCC has not completed testing the system changes necessary to offer the Global Clearance Network to its participants. Although the Commission, by this Order, has approved the proposed rule changes, ISCC is not permitted to begin offering these services until it: (1) Successfully completes testing, including functionality, capacity and stress testing of the system changes; and (2) provides the Commission staff with representations regarding the effective completion of those tests.

a Global Clearance Network Service with Citibank, N.A. ("Citibank"), as described below. In addition, the proposed rule change amends ISCC Rule 8 [5] to clarify that ISCC's software program, called Global Compass, may be used not only to access foreign financial institutions pursuant to ISCC Rule 40,[6] but also to access banks and trust companies pursuant to new ISCC Rule 50.

The ISCC/Citibank Global Clearance Network Service

A. In General

The ISCC/Citibank arrangement permits ISCC members that independently qualify as Citibank customers to have access to clearance, settlement, and custody services in any of 25 markets worldwide in which Citibank does business.[7] Participating ISCC members will access the services through a centralized location, using standardized input and output format for all transactions, and will pay reduced prices, listed in a separate Price Schedule, that result from the combined economies of scale of ISCC and Citibank.[8] Participating members will use ISCC as their agent for communicating instructions to Citibank for action at any of Citibank's market centers worldwide, and for receiving statements from Citibank describing the status of action taken and account balances. Upon receipt of instructions from ISCC, Citibank will disseminate the appropriate information to its agents and branches worldwide, who will provide the appropriate clearance, settlement, or custody services under Citibank's normal terms, conditions and operating framework. Services may vary by location, and will take place in accordance with local market practices, procedures, regulations, and conventions. ISCC will not handle physical certificates in any way in conjuction with these services, and payments for the services remain an obligation between the member and Citibank.

B. Guarantees

In order to obtain reduced prices for the services, ISCC has guaranteed Citibank that a certain number of transactions will be submitted for processing over a fixed period of time. In the absence of such volume, ISCC has agreed that Citibank will have the right to receive payment for any shortfall. In order to minimize its exposure from that guarantee, ISCC will require members who choose to use this service to guarantee to ISCC a proportionate share of such guarantee. In addition, participating members will be required to guarantee to pay ISCC for their proportionate share of ISCC's start-up costs for this service.

C. Payment Obligations

Each participating ISCC member must be approved as a customer by Citibank, because payment obligations for use of the services, such as fees, settlement amounts, or other funds necessary to conduct the clearance, settlement, and custody of foreign transactions, will remain an obligation between the member and Citibank and will be processed without ISCC intermediation. As is customary for any other Citibank customer, members must open a cash currency account in the local market or settle the value of the transactions in the U.S. in U.S. dollars.

Under the terms of the proposal and its agreement with Citibank, ISCC will collect transaction and service fees from members on Citibank's behalf and will be responsible to remit only those funds collected.[9] Thus, members will be billed by ISCC for the amounts listed on invoices submitted to ISCC by Citibank, reflecting each member's charges for services in each market in accordance with an agreed upon price schedule and the dollar conversion for such charges if not stated in dollars.[10]

D. ISCC Processing of Input

In accordance with the ISCC/Citibank arrangement, participating ISCC members may submit, in a standard format known as the Universal Trade Record ("UTR"), via their office computer's central processing unit (CPU) or any personal computer (PC), instructions concerning their securities accounts, including, among others, instructions to receive or deliver securities against payment or for no value. Each member will have a unique ID which will be maintained in an ISCC master file. Instructions received from members will be validated against the master file and the number of records transmitted by each member. Members will be notified of rejects automatically. Confirmations of accepted data will be transmitted to members.

All pending data will be edited for completeness and other checks. Refected data will go into a pending file for subsequent transmission to members. Periodically, ISCC will download the valid data from the mainframe into a dedicated workstation.[11] The data will be translated into Citibank's format, using siftware provided by Citibank, and edited. Data which fails the edit will be moved to a pending file. All valid data will automatically be transmitted to the Citibank network via an encrypted dedicated telecommunications line. Citibank will acknowledge receipt of the transmission and identify the number of records received. ISCC will retain a file of the number of records successfully transmitted, and will maintain a file of all transmissions received by the workstation and transmitted by the workstation.

Upon transmission of data from ISCC to Citibank, ISCC periodically will transmit a file containing data Citibank rejected to the ISCC mainframe. ISCC will combine the data rejected at the workstation level and data rejected at the mainframe level and transmit both sets of data to members.

[5] This proposal was made in an amendment to the proposed rule change, as noted above.

[6] ISCC Rule 40 permits ISCC to establish links with one or more Foreign Financial Institutions and to make available to any member who has entered into and maintained an appropriate agreement with ISCC such services as the Foreign Financial Institutions make available to ISCC. "Foreign Financial Institution" is a term defined in ISCC Rule 1.

[7] Citibank officials explained during a presentation of their services that, in the mid-1980s, Citibank determined that it wanted more control over the ability to deliver quality services to its customers. It therefore developed an automated common channel for instructions/information to and from an established service network. Thus, it is able to deliver services meeting high standards with substantial efficiencies, and it developed a critical mass to support the network at competitive prices.

Currently, Citibank has its own systems in more than 30 countries, and together with some subcustodians, operates in more than 40 countries. At this time, ISCC members are interested in only 25 of those markets. In time, if members develop an interest in any of the other markets that Citibank serves, those markets may become part of the Global Clearance Network Service offered by ISCC/Citibank.

[8] Citibank has the right to increase fees in the Price Schedule for one or more countries if the fee is increased by Citibank generally, but any such increase will preserve the special price terms established in the Price Schedule.

[9] With respect to payments for securities purchases, ISCC has assumed no duties. As noted above, those payments remain an obligation between the member and Citibank. Failure by an ISCC member to make these payments to ISCC will therefore not trigger an ISCC payment obligation to Citibank.

[10] Invoices will include: (1) Transaction charges in the currency stated in the Price Schedule, converted to dollars, if applicable, at the foreign exchange spot rate available to Citibank for such transactions two business days prior to the invoice date; (2) securities account access fees; and (3) message transmission fees.

[11] The workstation has two backups, one on-site and one off-site.

E. Citibank Processing and ISCC Retrieval of Output

Upon receipt of accepted data by Citibank, Citibank will perform such steps as are necessary to allow the data to be released to the local agent/branch for processing. Data that reaches Citibank's local level, and that is not acceptable for processing will be reported directly to the member by Citibank's agent/branch via facsimile, telephone, or telex. A member must submit a cancel instruction and resubmit new data to ISCC to continue the item for processing. Acceptable instructions will be processed by the Citibank agent/branch. Confirmations, statements, and balance reports ("output") will be made available for retrieval by ISCC. In additions, confirmations will be made available to ISCC as they are completed throughout the processing day. Balance reports and statements will be made available for retrieval on a schedule to be determined by Citibank.[12]

ISCC will access the Citibank network via the workstation four times during the processing day to download the output, and will convert the output into a standard format. Once converted, the output will be loaded to the ISCC mainframe where it will be sorted by member and converted to the appropriate output format. On a schedule to be determined, ISCC will make the output available in print image formats and machine readable file formats.

II. ISCC's Rationale for the Proposed Rule Change

The Global Clearance Network will permit participating ISCC members, using standardized input and output format, to obtain through ISCC, foreign clearing, settlement, and custody services offered by Citibank. This program will also permit participating members to benefit from economies of scale, by offering such members reduced prices listed on a Price Schedule provided by Citibank. The proposed rule change will therefore facilitate and centralize the processing of international securities transactions at a reduced overall cost to participating ISCC members.

III. Discussion

The Commission believes the proposed rule change, as amended, is consistent with section 17A of the Act and, therefore, is approving the proposal. Specifically, the Commission believes the proposal is consistent with section 17A(b)(3)(F) [13] of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions and fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

The Global Clearance Network offers participating ISCC members many advantages in securities processing including, but not limited to, central access for processing trades, standardized operating procedures, receipt of uniform reports on their trades, and reduced prices due to the economies of scale.

Currently, most broker-dealers participating in international trades use more than one agent bank for clearance and settlement of proprietary and customer transactions in foreign markets. As a result, such firms have the cumbersome task of ascertaining the ability of such agents to clear the trades, and organizing trade information into the appropriate formats for each such agent. The Global Clearance Network will permit these firms to use ISCC and Citibank as their agents, to facilitate such securities processing.

The Global Clearance Network may enhance competition among firms seeking to expand in the international trade of securities because it is available to all ISCC participants, large and small. Unlike today, where larger firms have an advantage in their access to international banks and therefore clearing services, the Global Clearance Network offers custody, clearance, and settlement services to all ISCC members who qualify.[14] To participate in the Global Clearance Network, an ISCC member would need to sign agreements with ISCC and Citibank, including an agreement to guarantee a certain percentage of ISCC guaranteed transaction volume. The guaranteed volume amount will be based on a good faith assessment by ISCC and Citibank of the member's actual periodic volume of international securities transactions. Therefore, smaller, less active participants will be expected to guarantee relatively smaller volume amounts than larger, more active participants in accordance with their lower transaction volume.[15]

Additional benefits to participating ISCC members include the reduction of input errors and the pre-matching of many trades.[16] In addition, the use of a centralized on-line access to ISCC and Citibank will permit members to more readily resolve transaction problems than if they had to look to multiple clearing facilities, many of which may use off-line record keeping and communications technology. Because of the standardized format to be used and the continuous confirmation process throughout the system, the chances of an input error resulting in a costly securities processing error are greatly reduced. Instead, a more likely result from an input error will be return of the faulty input to the sender with a prompt to correct such data. Also, the Citibank network offers each ISCC member a dedicated customer service officer who knows the customer and its business. This arrangement is particularly effective at prompt resolution of processing problems.

The Commission believes the centralized processing of transactions will provide a record-keeping benefit to participants over the current system. Although record-keeping requirements in the host countries will be subject to local laws, regulations, and standards, ISCC will preserve transaction records in accordance with United States laws, and Commission regulations and standards. This should result in more complete records with greater standardization regardless of where the trade was executed, cleared, and settled.

The data elements which members will enter into the standardized format, the UTR, will conform to current United States and international standards for transmission of data relating to the execution of international securities transactions. Participating members therefore will receive the benefit of being able to process and enter their trade data in a standard international format, reducing the need to accommodate their back office systems to a large number of different formats. In addition, because the data elements of the UTR will conform to both United States and international standards, the

[12] Citibank has a hot contingency site where all technology is backed up. Citibank's telecommunications network is proprietary, fully redundant and has alternate path routing capability.

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] Citibank reserves the right to refuse this service to any ISCC member for failure by such member to meet Citibank's normal credit standards.

[15] ISCC and Citibank will reserve the right to refuse to offer these services at reduced prices to any participating member which fails to meet its guaranteed volume over a stated time period.

[16] Pre-matching of trades is a clearance procedure whereby Citibank will compare buy and sell orders between different Citibank customers prior to sending them to the host countries. This procedure permits Citibank to take advantage of its advanced technology in the United States, while expediting processing in the host countries. It is expected that pre-matching by Citibank will result in fewer failed trades and more accurate record-keeping due to the use of centralized facilities and relatively high record-keeping standards in the United States.

Commission believes the Global Clearance Network will provide a further step in the standardization of the international clearance of trades.

Nothing in the proposal would establish dues, fees, or charges ISCC members may charge to their curstomers. Thus, consistent with section 17A of the Act, participating ISCC members will retain the freedom to charge customers fees for their services in accordance with current practices.

The Commission believes that the process by which ISCC chose Citibank as agent bank for this service was competitively fair. Upon receiving suggestions for this kind of service from internationally active members, ISCC asked interested firms to nominate banks as potential agents. A Steering Committee made up of interested members prepared a "Request For Proposal," which was sent to eight major banks nominated by the membership. Four banks responded, and of the four, two made proposals that subsequently were received and rated by the Committee. The Committee determined that Citibank offered the most favorable response. During the process, no additional requests for consideration were received by ISCC, and no objections to the selection process were made. In addition, the agreement with Citibank does not preclude an ISCC member from clearing similar services with another agent if the ISCC member so wishes.

ISCC has agreed to periodically provide data to the Commission about participant use of, and operational changes to, the Global Clearance Network. In particular, ISCC will provide to the Commission, at the close of each six month guarantee period, written information detailing aggregate transaction volume and the number of participants using the system. ISCC will also provide the Commission, promptly upon the close of each such six month period, information detailing aggregate transaction volume overages or underages for that period and any related payments in which such volume shortages are expected to result.[17]

[17] ISCC has represented that during the guarantee period it will promptly notify the Commission if any participant terminates its involvement in the Global Clearance Network. ISCC has also represented that it will promptly notify the Commission of any decision by Citibank to begin offering Global Clearance Network services in any additional countries not then serviced by the network, to change its agent in a country in which the services are already offered, or to terminate offering Global Clearance Network services in a country. Letter from Karen Saperstein, Associate General Counsel, ISCC, to Jack Drogin, Attorney Adviser, Division of Market Regulation, Commission (October 16, 1991).

IV. Conclusion

The Commission believes that the proposed rule change will help facilitate the prompt and accurate clearance and settlement of securities in accordance with section 17A(b)(3)(F) of the Act. In addition, the ability of all participants, both large and small, to benefit from this proposal also demonstrates that this proposal is in the public interest, for the benefit of investors and in furtherance of the purposes of the Act.

For the reasons discussed in this order, the Commission finds that the proposal is consistent with section 17A of the Act.

It is therefore Ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–ISCC–91–01) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26075 Filed 10–29–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29854, File No. SR-NYSE-91–21]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Rule 80A Limitations on Trading After Significant Market Movements

October 24, 1991.

On June 10, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission"), a proposed rule change to approve on a permanent basis provisions of Exchange Rule 80A relating to the imposition of certain conditions on the execution of index arbitrage orders and the trading of baskets of stock through the NYSE's Exchange Stock Portfolio ("ESP") Service[3] when the Dow Jones Industrial Average ("DJIA") advances or declines 50 points or more from its closing value on the previous trading day.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] The ESP service enables the trading of standardized baskets of stocks at an aggregate price in a single execution on the Exchange's stock floor. An ESP trade results in a transfer to the buyer of ownership of each of the component stocks in the basket. See Securities Exchange Act Release No. 27382 ("ESP Approval Order") (October 26, 1989), 54 FR 45834.

The proposed rule change was noticed for comment in Securities Exchange Act Release No. 29308 (June 14, 1991), 56 FR 23428.[4] Two comment letters were received on the proposed rule change.[5]

On July 30, 1990, the Commission approved NYSE Rule 80A on a pilot basis so that the NYSE would have "sufficient flexibility to modify the conditions in light of actual trading experience and future developments that materially affect market volatility issues."[6] Because the NYSE believes that the provisions of Rule 80A have been helpful in promoting market stability by minimizing excess volatility during periods of significant market movement on the NYSE, without adversely impacting other equity and equity derivative markets, the NYSE proposes that the provisions of Rule 80A be approved on a permanent basis.

I. Description of Pilot Program

The NYSE believes that rule 80A is designed to ensure that index arbitrage and ESP trading only will be exercised in a market stabilizing manner during volatile market conditions. Specifically, the NYSE's rule 80A is comprised of two components that establish conditions for effecting index arbitrage transactions and ESP trading, respectively, during periods of significant movement in the DJIA.[7]

First, conditions are placed on index arbitrage orders in component stocks of the Standard and Poor's 500 ("S&P 500") Stock Price Index executed on the NYSE when the DJIA declines or advances by 50 points or more from its previous day's

[4] The NYSE also submitted to the Commission a report on the operation of Rule 80A during the period it has been operating on a pilot basis. See The Rule 80A Arbitrage Tick Test—Report to the Commission ("NYSE Pilot Report"), NYSE Research & Planning, May 31, 1991. Additionally, in order to provide the Commission time to review the NYSE's proposal for permanent approval, the NYSE requested, and the Commission approved, an extension of Rule 80A until the earlier of November 1, 1991, or until such earlier date when the Commission acts on permanent approval of the pilot. See Securities Exchange Act Release No. 29498 (July 30, 1991), 56 FR 37377.

[5] See letters from Stephen B. Timbers, Chief Investment Officer, Kemper Financial Services, Inc., to Richard C. Breeden, Chairman, Commission, dated July 8, 1991; and Michael Schwartz, Chairman, Committee on Options Proposals, to Jonathan G. Katz, Secretary, Commission, dated July 9, 1991. As discussed *infra* note 40 and accompanying text, the comment letters all supported the NYSE proposal.

[6] See Securities Exchange Act Release No. 28282 ("Pilot Approval Order") (July 30, 1990), 55 FR 31468.

[7] Only 5 ESP transactions were executed on the NYSE between July 31, 1990 and September 30, 1991. Nevertheless, to ensure that ESP transactions are not utilized to circumvent the conditions that Rule 80A places on index arbitrage trading when the Rule is triggered, the NYSE proposes to continue the corresponding conditions on ESP transactions.

closing value. These conditions are not placed on all forms of program trading, only index arbitrage.[8] Specifically, when the DJIA declines by 50 points or more from its previous trading day's closing value, all index arbitrage orders [9] to sell must be entered with the instruction "sell plus."[10] Conversely, when the DJIA advances by 50 points or more from its previous trading day's closing value, all index arbitrage orders to buy component stocks of the S&P 500 must be entered with the instruction "buy minus."[11] Once activated, these conditions remain in effect for the remainder of the trading day, except that the conditions no longer apply when the DJIA moves back to a value which is 25 points or less from its previous day's closing value. These conditions would be re-imposed if the DJIA were subsequently to reach again the 50-point DJIA trigger and would be removed if the DJIA were to once again move to a value that was 25 points or less from its previous day's closing value.

Second, similar conditions are placed on trading through the NYSE's ESP Service after the DJIA moves 50 points from its previous day's close in order to ensure that only stabilizing ESP transactions are executed during volatile market conditions. Specifically, when the DJIA declines by 50 points or more from its previous trading day's closing value, no sale of an ESP may be made at a price equal to or less than the aggregate Tier 1 bid in the stock market.[12] Conversely, when the DJIA advances 50 points or more from its previous close, no purchase of an ESP basket may be made at a price equal to or greater than the aggregate Tier 1 offer in the stock market. The ESP basket, which is based on the S&P 500 Portfolio Index, still can trade at prices greater than (or less than, as the case may be) the last sale to the extent that upstairs market maker quotes for the ESP are better than the Tier 1 quotes, despite the fact that the DJIA may have advanced (declined) more than 50 points.[13] These requirements, like the index arbitrage conditions, remain in effect for the remainder of any trading day once they have been activated, except the conditions will no longer apply when the DJIA moves back to a value which is 25 points or less from its previous day's closing value. Similarly, these conditions would be re-imposed if the DJIA subsequently were to reach again the 50 point DJIA trigger and would be removed if the DJIA were to once again move to a value that is 25 points or less from the previous day's closing value.

II. Pilot Program Criteria

When approving the Rule 80A pilot program, the Commission required the NYSE, in connection with any request for extension of the pilot or for permanent approval of the pilot, to provide a quantitative and analytical assessment of the effects, if any, of the pilot rules on curbing destabilization of the stock market and retaining liquidity during volatile market conditions. The Commission also requested the NYSE to evaluate alternative measures to achieve these objectives.

In particular, the Commission identified three specific factors that should be analyzed: (1) Correction of stock prices after the 50 point triggering event from their low (high) price, (2) the bid/ask spreads of the stocks contained in the S&P 500 during those periods, and (3) the divergence between stocks, stock index futures and stock index options prices during those periods. The Commission further directed the NYSE to consider whether additional criteria for evaluating the effectiveness of the rule was appropriate and to include in its assessment of the operation of Rule 80A all factors that the NYSE deemed relevant in evaluating the effects of the rule.[14]

III. NYSE Pilot Report

The NYSE Report on the operation of Rule 80A examined the 32 times that the Rule was triggered between August 1, 1990 and April 30, 1992.[15] Twenty of such instances occurred between August 3, 1990 and October 19, 1990, reflecting the reaction of the markets to the Persian Gulf crisis, difficult federal budget negotiations, and uncertain economic conditions. The NYSE notes that since that time, Rule 80A has been triggered, on average, once or twice a month.[16]

The NYSE Report stated that Rule 80A has two related purposes: (1) To prevent large price changes from gathering momentum by discouraging the submission of index arbitrage orders during periods when they might accelerate stock price moves; and (2) to dampen large stock price swings by slowing the execution of sell (buy) index arbitrage orders in a sharply falling (rising) market.[17]

In order to examine the impact of the tick test on index arbitrage activity, the NYSE compared days when rule 80A was triggered ("80A days") with days before August 1, 1990 when the DJIA moved 50 points or more from its previous day's closing value and where rule 80A would have been triggered if it had been in effect ("Control days").[18] Additionally, the NYSE subdivided each group into days where rule 80A was triggered because the DJIA rose 50 or

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[8] NYSE Rule 80A(e)(ii) defines "index arbitrage" as an arbitrage trading strategy involving the purchase or sale of a "basket" or group of stocks in conjunction with the purchase or sale, or intended purchase or sale, of one or more cash-settled options or futures contracts on index stock groups, or options on any such futures contracts, in an attempt to profit from the price difference between the "basket" or group of stocks and the derivative index products.

[9] These provisions apply to all index arbitrage orders in component S&P 500 stocks traded on the NYSE, regardless of whether they are routed through the Exchange's Designated Order Turnaround ("DOT") system.

[10] "Sell plus" means that the order only can be executed on a plus or zero plus tick. A plus tick is a price above the price of the last preceding sale. A zero plus tick is a price equal to the last sale if the last preceding transaction at a different price was at a lower price.

[11] A "buy minus" order can only be executed on a minus or zero minus tick. A minus tick is a price below the price of the last preceding sale. A zero minus tick is a price equal to the last sale if the last preceding transaction at a different price was at a higher price.

[12] NYSE specialists in individual stocks comprising the ESP basket will, in the aggregate, provide "Tier 1" and "Tier 2" quotations. A "Tier 1" component stock quotation is derived from the price of the best published bid and published offer for the basket's component stocks. An aggregate Tier 1 quotation is derived from the weighted summation of the prevailing bids and offers for each of the basket's component stocks as disseminated through the consolidated quotation system, plus the Tier 1 "mini-basket" bid and offer for the non-NYSE component stocks. A "Tier 2" quotation refers to the bid or offer for the number of shares of a basket's component stocks that would be included in three baskets. For additional information, see ESP Approval Order, *supra* note 3.

[13] In the event a Tier 1 bid and offer is not available because the trading of one or more of the component S&P 500 stocks is halted, then a special aggregate Tier 1 quotation shall be displayed that shall serve as the reference point for the stabilizing requirement.

[14] The Commission also requested the NYSE to provide an interim written report six months after the pilot was approved. The Exchange complied with this request. See The Rule 80A Index Arbitrage Tick Test—Interim Report to the Commission ("Interim Report"), NYSE Research & Planning, January 31, 1991. The findings of the Interim Report are substantially similar to the NYSE Report discussed in Part III of this order.

[15] Between May 1, 1991 and September 30, 1991, Rule 80A was triggered six additional times. The NYSE represents that it is not aware of any negative effects on the market associated with the operation of Rule 80A since its Report was concluded. See letter from Brian M. McNamara, Managing Director, Market Surveillance, NYSE, to Howard Kramer, Assistant Director, Division of Market Regulation, dated October 9, 1991.

[16] NYSE Report, *supra* note 4, at 4.

[17] NYSE Report, *supra* note 4, at 3.

[18] For the specific 80A days and Control days, as well as when the tick test was triggered on these days or would have been triggered in the case of Control days, when the test was lifted (or would have been lifted), and the type of tick test (*i.e.*, buy minus or sell plus), see Table A1 and Table A2 of the NYSE Report.

more points from the previous day's closing value ("up days") and days where rule 80A was triggered because the DJIA dropped 50 or more DJIA points from the previous day's closing value ("down days"). Between August 1, 1990 and April 30, 1991, rule 80A was triggered 32 times on 31 days—18 times in down markets and 14 times in up markets.

Based on its comparative analysis of trading and market performance data for rule 80A days and the Control days, the NYSE was able to reach some conclusions regarding the effect of rule 80A on the markets. In general, the NYSE Report concluded that rule 80A dampened volatility, but that volatility has not been eliminated and the potential for large market moves remains. The NYSE also found that the response to rule 80A "among professional stock market participants—including program trading desks of most major Wall Street firms—has also been more favorable than not." [19] Following is a more detailed description of the NYSE's findings with respect to the impact of rule 80A on (1) index arbitrage, (2) the linkage between the stock market and the futures markets, (3) price volatility, and (4) specialist behavior.

A. The Impact of rule 80A on Index Arbitrage

The NYSE Report found that the operation of rule 80A has had an impact on index arbitrage in several ways.[20] As mentioned earlier, the triggering of rule 80A does not preclude the submission of index arbitrage orders to the NYSE after a 50-point DJIA move, it merely places conditions on the execution of such orders. As a result, the NYSE found that the execution of index arbitrage orders, on average, slows once 80A is triggered. Specifically, whereas, S&P 500 non-tick sensitive index arbitrage orders normally take less than 1.5 minutes to be executed, after rule 80A is triggered, tick sensitive S&P 500 index arbitrage orders that are required to be executed on an appropriate uptick or downtick average 34 to 39 minutes to be executed.[21] By slowing the execution of index arbitrage orders, rule 80A makes the simultaneous establishment of futures and cash positions more difficult, thereby increasing index arbitrage execution risk.

The NYSE Report found that the delays associated with the execution of index arbitrage on rule 80A days and the increased risks attendant thereto had several ramifications for index arbitrage activity. First, the intensity (average dollar value per minute) of index arbitrage activity declined when the rule was in effect. Specifically, in a falling market, after rule 80A was triggered, the intensity of sell index arbitrage programs subject to the tick test declined 30% (from $762,156 per minute to $534,182 per minute) compared to the Control days. Similarly, in a rising market, the intensity of buy index arbitrage programs subject to the tick test declined 50% (from $2,022,130 per minute to $1,007,310 per minute) compared to the Control days.[22]

Second, during 80A periods, there is a dramatic shift in the relative importance of principal and agency index arbitrage trades.[23] Specifically, on down days when rule 80A is triggered, sell agency index arbitrage programs declined 74%. Likewise on up days, buy agency index arbitrage programs declined 86%.[24] Accordingly, the percentage of index arbitrage undertaken on a principal basis increased significantly.[25] The NYSE notes that this result should not be considered surprising because traditionally a significant portion of principal index arbitrage is tick sensitive.[26]

Third, the NYSE found that one way investors reduced the higher index arbitrage execution risk on rule 80A days was to use a smaller number of actively traded stocks in their index arbitrage orders. Specifically, the NYSE found that, while the dollar value and number of shares of an average index arbitrage program was unaffected by the imposition of rule 80A, the average number of stocks in each program declined significantly from 179 to 145.[27]

Fourth, the NYSE Report concluded that on rule 80A days the portion of index arbitrage that is executed on the NYSE declines, although not substantially, as arbitrageurs send their orders to other domestic or overseas markets that do not impose similar limitations. Specifically, the NYSE found that the portion of index arbitrage trading on the NYSE dropped from 99% to 90%, due almost completely to increased trading overseas and elsewhere after the NYSE close.[28]

Lastly, the NYSE found that the imposition of rule 80A's restrictions led to the greater use of derivative products based on smaller baskets of stocks—particularly the XMI futures contract and the OEX options based on the S&P 100—at the expense of the S&P 500 futures contract.[29] In addition, the NYSE found that during 80A periods, index arbitrageurs increased the degree to which they "legged" into their related futures positions.[30] Specifically, during Control days, index arbitrageurs established their futures legs on average 1.7 minutes after the cash leg, whereas, during 80A days, they waited on average 5–6 minutes to establish the futures position.[31]

B. The Impact of rule 80A on Mispricing Between the Cash and Futures Markets

The NYSE Report examined the effect that rule 80A had on efficient pricing between the derivative markets and the markets for the underlying stocks traded on the NYSE. Specifically, the NYSE sought to determine whether rule 80A, by impeding some forms of index arbitrage activity, caused the prices of related instruments in the cash and futures markets to diverge significantly, creating confusion about true price levels and possibly triggering panic rather than relieving stress. To test this "de-linking" of the markets, the NYSE measured "mispricing" between the two

[19] See NYSE Report, supra note 4, at 18.

[20] Furthermore, the NYSE Report stresses that not all index arbitrage is directly affected by rule 80A. Only sell index arbitrage must meet the tick test on rule 80A down days and only buy index arbitrage orders must meet the test on rule 80A up days. Moreover, index arbitrage market-on-close orders on index options or index futures expirations are exempt from the tick test. See Securities Exchange Act Release No. 28553 (October 18, 1990), 55 FR 42926 and NYSE Report, *supra* note 4, at 5.

[21] See NYSE Report, *supra* note 4, at 4.

[22] *Id.* at 6.

[23] Principal trades are trades done by NYSE members for their own account. Agency trades are trades done by NYSE member firms on behalf of their customers, typically institutional investors.

[24] See NYSE Report, *supra* note 4, at 6.

[25] See NYSE Report, *supra* note 4, at 6 and Tables 3a, 3b, 4a, and 4b.

[26] Specifically, it is difficult for many large member firms to be certain whether they are long or short in each of the component stocks in an index arbitrage program. Consequently, rather than risk violating the short-sale rule, some of these firms routinely mark all their index arbitrage sell programs sell-short. Moreover, many principal index arbitrage orders are submitted on a tick sensitive basis in an attempt to reduce their spread costs by buying at the bid (buy-minus orders) or selling at the offer (sell-plus orders). See NYSE Report, *supra* note 4, at 6–7.

[27] *Id.*

[28] See NYSE Report, *supra* note 4, at 7–8 and Table 6 to the Report. The overseas trading usually occurs in a foreign over-the-counter market. In a recent order concerning Wunsch Auction Systems, Inc. ("WASI"), the Commission stated its belief that "[t]he fact that the trade may be time-stamped in London * * * does not in our view affect the obligation * * * to maintain a complete record of such trades and report them as U.S. trades to U.S. regulatory and self-regulatory authorities and, where applicable, to U.S. reporting systems." See Securities Exchange Act Release No 28899 (February 28, 1991), 56 FR 8377.

[29] *Id.* at 8.

[30] "Legging" is the non-simultaneous establishment of cash and futures positions.

[31] *Id.*

markets on 80A days compared with Control days.[32] With regard to the down days, the NYSE found that there was no significant increase in mispricing during periods when rule 80A was in effect as compared to Control days. With respect to up days, the NYSE found, however, that mean absolute mispricing between the markets increased significantly. The NYSE Report noted that this increase in mispricing was solely the result of one trading day, January 17, 1991, when the market rose 114 DJIA points based on early U.S. successes in the Persian Gulf.[33]

C. The Impact of rule 80A on Price Volatility

The NYSE Report examined the effect rule 80A had on price momentum—a phenomena in rapidly moving markets for prices to overact and then reverse themselves in a short time. Based on its review of market performance on 80A days and Control days, the NYSE Report concluded that during price declines the rule 80A tick test appears to curb this momentum in both the cash and futures markets. The NYSE Report concluded, however, that there was no evidence that the rule 80A tick test restrains momentum in either market after 50 point DJIA upward moves, mainly because there appeared to be no "momentum" on up days—prices simply rose above the 50-point mark and stayed there.[34]

The NYSE Report also concluded that there is no statistically significant evidence that rule 80A produces a so-called "magnet" effect that draws the market upward or downward as it approaches the 50-point trigger. Specifically, based on its review of the data, the NYSE could not find any statistically significant differences between the market tendencies in this regard on rule 80A days versus Control days.[35]

In addition, the NYSE examined the effect of rule 80A on market liquidity and short-term price volatility in both the cash and futures market. The NYSE found that the impact of rule 80A on short-term (minute-by-minute) volatility was mixed. Specifically, the NYSE Report indicated that when rule 80A is triggered, short-term cash market volatility is reduced, and short-term future market volatility is reduced or unchanged.[36] The NYSE Report indicated, however, that there is some evidence that as the market approaches the 50 point trigger, short-term volatility increases in both the cash and futures markets for rule 80A days in comparison with Control days.

Finally, the NYSE Report found that the standard measures of NYSE market quality appear largely unaffected by rule 80A. Specifically, the NYSE Report indicated that: (1) Quotes on the NYSE did not widen after the 50 DJIA point trigger was reached; [37] and (2) the imposition of rule 80A did not have any negative effect on price continuity and depth in the market.[38]

D. The Impact of Rule 80A on Specialist Behavior

The NYSE found that Rule 80A did not have a negative impact on specialist behavior. Specifically, the NYSE Report found that specialist participation and stabilization rates were not adversely effected by rule 80A.[39]

IV. Comment Letters

The Commission received two comment letters on the NYSE's proposal to approve, rule 80A on a permanent basis. Both letters supported the NYSE proposal.[40]

Michael Schwartz, Chairman of the Committee on Options Proposals indicated his organization's support for the pilot program. He stated that the pilot program "in conjunction with the expiration imbalance disclosure procedure, have proven to reduce volatility from program trading and have taken the fear out of the triple witching hour."

Similarly, Stephen B. Timbers, Chief Investment Officer of Kemper Financial Services, a large, active money manager, supports the NYSE proposal to make rule 80A permanent. Specifically, he indicates that "while the stock market has remained volatile, the Rule has helped diminish the chances of a repeat of the psychologically damaging episodes of dramatic price changes, which we experienced in 1987 and 1989."

V. Discussion

After careful consideration of the comments received, applicable statutory provisions, relevant policy considerations, and the criteria the Commission established to evaluate rule 80A, the Commission believes that the NYSE's proposal to seek permanent approval of its procedures to condition index arbitrage and ESP trading activities after significant market moves is reasonably designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. For these reasons and for the additional reasons set forth below, the Commission finds that approval of the Exchange's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in general, and the requirements of section 6(b)(5) and the rules and regulations thereunder, in particular.[41]

The Commission believes it is important that all markets attempt to address excessive market volatility. As a result of the cooperative efforts of the Commission, the Commodity Futures Trading Commission ("CFTC"), and the securities and futures selfregulatory organizations ("SROs"), coordinated circuit breaker mechanisms were implemented in the wake of the October 1987 Market break to substitute planned trading halts for unplanned and destablizing market closings during turbulent market conditions. In addition, the securities and commodities SROs, with respective Commission and CFTC approval, have implemented a number of measures that are referred to as "speed bumps" because they are designed to slow down the pace of activity during such periods without

[32] See NYSE Report, *supra* note 4, at 9 and Tables 9a, 9b, and 9c of the Report.

[33] The NYSE Report notes that none of the other 80A up days exhibited unusual mispricing. See NYSE Report, *supra* note 4, at 9.

T3Id. at 10–12. The NYSE measured corrections in market momentum at the request of the Commission, but noted that they did not believe based on available data that the differences between market performance on rule 80A days and the Control days were statistically significant. Additionally, the NYSE qualified its findings on price momentum because the number of events in the rule 80A sample was small and the market price behavior was measured for only 45 minutes on either side of the trigger

[35] See NYSE Report, *supra* note 4, at 12–13.

[36] See NYSE Report, *supra* note 4, at 12, 13.

[37] See NYSE Report, *supra* note 4, at 16 and Table 11. Specifically, the NYSE Report indicated that the weighted average quote spread in 50 large stocks on volatile days was unaffected by rule 80A. Additionally, the NYSE Report indicated that quotes widened less after a 50 point move in 80A days compared with Control days ($.203 to $.206 for 80A days compared with $.196 to $.216 for Control days). The NYSE Report noted, however, that quotes had been slightly wider before the 50 point mark since August 1, 1991 ($.203 compared with $.196).

[38] Price continuity measures the absolute price changes between two consecutive trades. Based on data for the 50 highest capitalized NYSE stocks, rule 80A appears to have no impact on price continuity. Depth also measures market liquidity, testing the extent to which a trade or series of trades moves the market. As with price continuity, the NYSE found no discernable difference in market depth when comparing 80A days with Control days See NYSE Report, *supra* note 4, at 17 and Tables 12 and 13.

[39] See NYSE Report, *supra* note 4, at 17 and Table 14.

[40] See *supra* note 5.

[41] 15 U.S.C. 78f(b)(5) (1982).

closing the markets completely. The Commission believes that the most significant of the "speed bumps" implemented in the securities markets is NYSE rule 80A.

After reviewing the operation of rule 80A for over one year, the Commission believes, as it did when approving the NYSE proposal on a pilot basis, that rule 80A represents a modest but useful step by the NYSE to attempt to address the issue of market volatility. Rule 80A has been triggered over 30 times since August 1990 as the market has reacted to dramatic events in the Persian Gulf and the Soviet Union, difficult federal budget negotiations, and uncertain U.S. economic conditions. Although the markets, as one would expect, have experienced significant volatility in response to these events, the markets this past year have not suffered the same episodes of extreme short term volatility as in October 1987 and October 1989. It is impossible to determine how the markets would have performed if rule 80A had not been in effect for the past 15 months, but the fact remains that the markets' movements while rule 80A was in effect were relatively orderly in comparison to the prior three years, despite extraordinary political and economic events.

Accordingly, the Commission continues to believe that it is appropriate for rule 80A—which provides for pre-set trading conditions—to remain in place in order to prevent index arbitrage activity from exacerbating market moves. These conditions have not been disruptive to the marketplace, and they only apply after major market moves and only to a trading strategy, index arbitrage, which is not necessary to establish, adjust, or reduce stock positions.

When the NYSE first proposed rule 80A on a pilot basis, the Commission received negative comment letters from the eight commentators who opposed rule 80A.[42] It is significant that the Commission received no comment letters opposing the NYSE's proposal to make rule 80A permanent, especially after a year of many experiences with the rule. Instead, as discussed above, all the comment letters received by the Commission regarding the NYSE's proposal for permanent approval of rule 80A were favorable.[43] Moreover, the Commission agrees with the NYSE that the operation of the 80A pilot generally has been viewed favorably by market professionals and investors.[44]

Moreover, the Commission believes that the NYSE has adequately addressed all the issues raised by the Commission when the Rule was approved on a pilot basis. When approving rule 80A, in view of the negative comments received, the Commission designed criteria that would determine whether rule 80A created negative side effects on the securities and/or derivative markets that would offset the benefits the rule would provide to the market by conditioning index arbitrage trading during volatile periods. Accordingly, the NYSE undertook, as described in part III, an in-depth comparison of rule 80A days and Control days—days prior to the implementation of rule 80A when the market experienced 50-point DJIA moves. In general, the NYSE Report concluded that Rule 80A has had a significant impact on index arbitrage and may have dampened, but not eliminated, volatility in the markets.

The performance of rule 80A in two areas where the Commission requested a specific assessment of its effect is clear. First, and most importantly, the triggering of rule 80A has not caused significant divergence in pricing between the stock, stock index futures and stock index options markets. Many of the commentators who opposed rule 80A when it was proposed on a pilot basis argued that rule 80A would create a serious de-linking of the cash and derivative markets. This de-linking or "mispricing" has not occurred. Instead, the NYSE Report indicates that mispricing between the markets was unchanged on down days and only found significant mispricing on one up day.[45] The Commission, therefore, believes that rule 80A has been able to perform its essential task of conditioning destabilizing index arbitrage transactions without de-linking the cash and derivative markets.

Second, rule 80A has not caused the bid/ask spreads of the stocks comprising the S&P 500 to widen. The weighted average quote spread in 50 large stocks contained in the S&P 500 on volatile days was unaffected by rule 80A, and, after the 50 point mark was reached, the bid/ask spreads for the 50 stocks on Rule 80A days widened less in comparison to Control days.[46] Additionally, the NYSE Report indicated that rule 80A did not negatively affect specialist participation, specialist stabilization activities, or market depth and continuity measures—standard measures of NYSE market quality. The Commission does not find either of these results surprising because of the affirmative and negative obligations that the NYSE imposes on its specialists.[47]

The performance of rule 80A in the third area identified by the Commission—the correction of stock prices after the triggering event from their low (high) price—is more subjective and difficult to determine. Analytically, the NYSE Report concluded that rule 80A appears to curb momentum in cash and futures markets on down days, but does not appear to have a significant effect on either market on up days. In this regard, the Commission also notes the absence of one-day market volatility approaching the market breaks of 1987 and 1989 since rule 80A has been in effect. Accordingly, given the fact that the NYSE Report found no discernible adverse market effects due to the imposition of rule 80A, coupled with the benefits that the rule has engendered—namely the absence of destabilizing extreme price volatility, the Commission believes it is reasonable to approve the rule on a permanent basis.

The Commission believes that it is appropriate that the NYSE, based on the performance of rule 80A, be permitted to exercise its marketplace judgement in keeping the trigger point for rule 80A at 50 DJIA points. Specifically, the Commission agrees with the NYSE that the experience of the pilot indicates that the 50-point level appears to be high enough that it is not triggered too frequently, yet low enough to act as a meaningful check on excess market volatility which might be associated with index arbitrage activity. Based on the data regarding rule 80A, it appears that during certain periods of extremely significant events, such as the initiation of the Persian Gulf crisis in August 1990, that rule 80A may be triggered fairly often over a short period of time. Otherwise, rule 80A appears to be triggered about twice a month. Due to the lack of evidence of any harmful

[42] At that time, the following commentators either opposed the NYSE's proposed pilot program or believed that the Commission should delay approval of the proposal - the CFTC, the Chicago Board of Trade, the Chicago Mercantile Exchange ("CME"), J.P. Morgan Investment, Wells Fargo, Nikko Investment Advisors, Hans R. Stoll and James T. Witherspoon. See Pilot Approval Order, *infra* note 6 at notes 30–39 and accompanying text.

[43] See note 40 *supra* and accompanying text.

[44] See NYSE Report, *supra* note 4, at 18.

[45] See notes 32–33 *supra* and accompanying text.

[46] See *supra* note 37 and accompanying text. Based on the representative sampling of the 50 stocks the NYSE selected and the absence of other studies with a contrary conclusion regarding bid/ask spreads after rule 80A has been triggered, the Commission does not believe it is necessary for the NYSE to examine the bid/ask spreads for the other 450 stocks that comprise the S&P 500.

[47] See NYSE rule 104.

effects of rule 80A, this frequency of triggering does not seem unreasonably intrusive to normal marketplace operations. Moreover, the Commission believes that in periods of market uncertainty the knowledge that conditions will be placed on destabilizing index arbitrage trading after a major market move has a positive effect on the operation of the market and the public's confidence in the market.

Finally, the NYSE was asked to evaluate alternative measures to rule 80A to curb destabilization of the stock market and retain liquidity in the market during volatile market conditions. In a letter addressing these issues ("NYSE Letter"),[48] the NYSE indicated that rule 80A evolved from the experience of other approaches that the NYSE had undertaken to address excessive market volatility.[49] Additionally, the Exchange noted that it recognized that there were other alternative approaches to addressing market volatility such as (1) multi-tiered circuit breakers to be installed across all markets; (2) proposals to utilize "contingent limit orders;" and (3) suggestions to alter the NYSE trading system to handle institutional orderflow more efficiently. The NYSE Letter noted, however, that because rule 80A has been working reasonably well at the present time, the NYSE is not currently considering pursuing alternatives to rule 80A. The NYSE noted, however, that the Exchange will continue to monitor the effectiveness of rule 80A, and, if developments warrant revising its provisions, appropriate modifications will be submitted to the Commission for consideration.[50]

[48] See letter from Brian M. McNamara, Managing Director, Market Surveillance, NYSE, to Thomas Gira, Branch Chief, Branch of Options Regulation, Division of Market Regulation, dated August 19, 1991.

[49] Specifically, the NYSE previously had requested its members and member organization to refrain voluntarily from using the Exchange's SuperDot system for index arbitrage orders whenever the DJIA moved 75 points above or below its previous day's closing value. Additionally, the NYSE instituted "sidecar" procedures which diverted program trading orders in component S&P 500 stocks to a separate file for five minutes on any day that the price of the primary S&P 500 futures contract traded on the CME declined 12 points below its closing value from the previous day See Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637.

[50] Although the Commission is approving rule 80A on a permanent basis, the Commission expects the NYSE to monitor closely the operation of rule 80A and to notify the Commission immediately of any problems associated with the operation of rule 80A, and, in addition, requests the NYSE to submit for each year over the next three years a report to the Commission on the operation of rule 80A.

Accordingly, based upon the aforementioned factors, the Commission finds that the Exchange's proposed rule change is consistent with the requirements of section 6(b)(5) and the rules and regulations thereunder.

It Therefore Is Ordered, pursuant to section 19(b)(2) of the Act,[51] that the proposed rule change (SR–NYSE–91–21) is approved.

By the Commission.

Margaret H. McFarland.

Deputy Secretary.

[FR Doc. 91–26076 Filed 10–29–91, 8:45am]

BILLING CODE 8010–01–M

[Release No. 34–29853; File No. SR–OCC–90–05]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to Earlier Guarantee of Options Transactions

October 23, 1991.

On March 30, 1990, pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–OCC–90–05) concerning the guarantee of options transactions submitted to OCC for clearance. OCC submitted three amendments to the proposed rule change.[2] Notice of the proposal was published in the **Federal Register** on September 25, 1990.[3] No comments were received. This order approves the proposal.

I. Description

The proposal will amend OCC's by-laws and rules to establish that OCC will guarantee each options transaction submitted to it for clearance at the time OCC makes available to clearing members its Daily Position Report that reflects the exchange transaction in which the options contract was purchased.[4] The proposal also amends OCC's by-laws and rules to eliminate OCC's discretion to reject an options transaction because a purchasing clearing member has failed to pay any amount due to OCC at or before the settlement time for the options transaction (*e.g.*, nonpayment of premium). Under the proposal OCC will retain the right, however, to reject a market basket if OCC has not received at or before the settlement time all amounts due to OCC from the purchasing clearing member in the account in which the market basket transaction is effected.[5] Moreover, under the proposal OCC will not be required to guarantee any options transaction of a suspended clearing member that is effected after OCC suspends the clearing member.

In the event a clearing member has not paid OCC the premium for an options transaction before settlement time, OCC will retain the right to apply any funds credited to the clearing member's account to the payment of the premium. OCC, however, will apply funds credited to the clearing member's customers' account only to the payment of premiums on options transactions in the clearing member's customers' account. Similarly, OCC will not apply funds credited to the clearing member's market makers' account, specialists' account, or combined market makers' and specialists' account to the payment of premiums on options transactions in any account other than the account where the options transactions were effected. Furthermore, the proposal provides that when OCC accepts an opening purchase that results in the creation of a long position in an account where there are payments due to OCC, the long position will be deemed to be an unsegregated long position, and OCC will have the right to close out or to exercise the long position and to apply

[51] 15 U.S.C. 78s(b)(2) (1982).

[1] 15 U.S.C. 78s(b).

[2] As originally filed, the proposal would have amended OCC's by-laws and rules to establish that, generally, OCC's guarantee of options transactions submitted to it for clearance would become effective at settlement time whether or not a purchasing clearing member had met its premium settlement obligations. On August 7, 1990, OCC filed Amendment No. 1 to the proposal to make its guarantee effective at the time OCC makes available to clearing members its Daily Position Report that reflects the exchange transaction in which the option contract was purchased. On October 26, 1990, OCC filed Amendment No. 2 to state expressly that OCC shall have no obligation to accept any options transaction of a suspended clearing member effected after the time of the suspension. On August 23, 1991, OCC filed Amendment No. 3 to reflect how the proposal will modify OCC by-laws and rules currently in effect rather than OCC by-laws and rules as proposed to be modified by OCC's proposed rule change SR–OCC–89–13.

[3] See Securities Exchange Act Release No. 28446 (September 17, 1990), 55 FR 39343.

[4] Prior to 9 a.m. central time (10 a.m. eastern time) of each business day, OCC issues to each clearing member a Daily Position Report for each account maintained by the clearing member with OCC. The Daily Position Report lists, among other things, all exchange transactions of the clearing member that are to settle that business day and shows the net daily premiums due to or from OCC as a result of such exchange transactions. OCC Rule 501

As a general rule, Daily Position Reports are available to clearing members between 2 a.m. and 4 a.m. central time.

[5] OCC By-laws, Art. XIX, § 2.

the proceeds in accordance with chapter XI of OCC Rules.[6]

OCC's proposed rule change will implement one of the recommendations made by a special subcommittee of the margin committee of OCC's board of directors after the October 1987 market break. After reviewing OCC's discretionary right to reject options trades, the subcommittee concluded that an options trade should be considered cleared when executed and matched, and that any losses resulting from options trades with an insolvent clearing member should be borne by the industry as a whole through OCC.

II. Discussion

Sections 17A(b)(3) (A) and (F) of the Act provide that a clearing agency must be organized and its rules designed to promote the prompt and accurate clearance and settlement of securities transactions.[7] Those sections also provide that the design and rules of a clearing agency must promote the safeguarding of funds and securities in the possession or control of the clearing agency or for which it is responsible.

As the Commission's Division of Market Regulation previously has stated, certainty is one of the cornerstones of any clearance and settlement system.[8] By eliminating OCC's ability to reject options trades for nonpayment of amounts owing to OCC, OCC's proposal helps to assure investors that the trades they have executed will not be rejected for reasons pertaining to the financial condition of their counterparties. In addition, by guaranteeing trades upon the report of matched trade data to clearing members, OCC's proposal permits investors to assess their positions from previous trades and formulate their trading strategy before the trading day commences.[9] Thus, OCC's proposal promotes the prompt and accurate clearance and settlement of options transactions by removing some of the uncertainty from the current options trading environment.

The Commission also believes that OCC's proposal promotes the safeguarding of securities. The proposal will not require OCC to guarantee options trades that were effected after OCC suspends a clearing member. The Commission believes this limitation is appropriate in light of efforts by options exchanges to match trades several times each day and, ultimately, to develop locked-in trading systems. The Commission encourages OCC and its participant exchanges to review communications procedures so that suspension decisions are sent and received on a timely basis.

III. Conclusion

For the reasons stated above, the Commission finds that OCC's proposal is consistent with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that OCC's proposal (SR–OCC–90–05) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26121 Filed 10–29–91; 8:45 am]

BILLING CODE 8010–01–M

[6] Chapter XI of OCC Rules, Suspension of a Clearing Member, sets forth OCC procedures for situations where a clearing member is unable to meet its obligations or is insolvent.

[7] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[8] Division of Market Regulation, The October 1987 Market Break (February 1988) at 10–48 to 10–58.

[9] See *supra* note 4.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 91–55]

Chemical Transportation Advisory Committee; Request for Applications

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). This committee advises the Chief, Office of Marine Safety, Security and Environmental Protection on regulatory requirements for promoting safety in the transportation of hazardous materials on vessels and the transfer of these materials between vessels and waterfront facilities.

Applications will be considered for eight expiring terms and for any other existing vacancies. To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in applications from minorities and women.

The Committee usually meets at least once a year in Washington, DC, with Subcommittee meetings for specific problems on an as-required basis.

DATES: Requests for applications should be received no later than January 1, 1992. Completed applications should be submitted to the Coast Guard before February 15, 1992.

ADDRESSES: Persons interested in applying should write to Commandant (G–MTH–1), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: CDR Kevin J. Eldridge or Mr. Frank K. Thompson, all at the above address or telephone (202) 267–1217.

Dated: October 23, 1991.

A.E. Henn,

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

[FR Doc. 91–26123 Filed 10–29–91; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 24, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–1100.

Form Number: None.

Type of Review: Extension.

Title: Changes with Respect to Prizes and Awards and Employee Achievement Awards.

Description: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made. The affected public are prize and award recipients who seek to exclude the cost of a qualifying prize or award.

Respondents: Individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91–26113 Filed 10–29–91; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 210
Wednesday, October 30, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, November 4, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of computer equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 542–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 28, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–26238 Filed 10–28–91; 11:07 am]

BILLING CODE 6210–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee Meeting; Notice

TIME AND DATE: A meeting of the Board of Directors Operations and Regulations Committee will be held on November 13, 1991. The meeting will commence at 1:30 p.m.

PLACE: Hyatt Regency O'Hare Hotel, 9300 West Bryn Mawr, The Mexicana Room, Rosemont, Illinois 60018, (708) 696–1234.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Consideration of Matters Related to the Design and Development of a Demonstration Project for the Competitive Bidding of Funds Granted by the Legal Services Corporation.

CONTACT PERSON FOR INFORMATION: Patricia Batie, Executive Office, (202) 863–1839.

Date issued: October 28, 1991.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 91–26338 Filed 10–28–91; 2:50 pm]

BILLING CODE 7050–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [56 FR 54916, October 23, 1991.]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, October 21, 1991.

CHANGE IN THE MEETING: Deletion.

A closed meeting scheduled for Tuesday, October 29, 1991, at 2:30 p.m., has been cancelled.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertion what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272–2100.

Dated: October 28, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–26363 Filed 10–28–91; 3:58 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 4, 1991.

A closed meeting will be held on Monday, November 4, 1991, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Monday, November 4, 1991, at 2:30 p.m., will be:

Settlement of injunctive action.
Institution of administrative proceeding of an enforcement nature.
Statement of administrative proceeding of an enforcement nature.
Regulatory matter regarding financial institutions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kaye Williams at (202) 292–2400.

Dated: October 28, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–26364 Filed 10–28–91; 3:58 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 56, No. 210
Wednesday, October 30, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Region; Exemption of Southern Pine Beetle Control to Protect Colonies of the Endangered Red-Cockaded Woodpecker Within Little Lake Creek Wilderness on the Sam Houston National Forest, TX

Correction

In notice document 91-19426 appearing on page 40598 in the issue of Thursday, August 15, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-19246" should read "FR Doc. 91-19426".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Alaska Power Administration

[Rate Order No. APA-11]

Snettisham Project—Notice of Order Confirming and Approving an Adjustment of Power Rates on an Interim Basis

Correction

In notice document 91-24342 beginning on page 50894 in the issue of Wednesday, October 9, 1991, make the following correction:

On page 50896, Table 1 appears twice. Delete Table 1 in the second and third columns before the file line at the end of the document.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP90-910-005]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 91-17498 appearing on page 33924 in the issue of Wednesday, July 24, 1991, in the second column, in the file line at the end of the document, "FR Doc. 91-17497" should read "FR Doc. 91-17498".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Part 9005

[Notice 1991-11]

Public Financing of Presidential Primary and General Election Candidates

Correction

In rule document 91-17610 beginning on page 35898 in the issue of Monday, July 29, 1991, make the following correction:

§ 9005.1 [Corrected]

On page 35923, in the first column, in § 9005.1(a), in the seventh line, "tb" should read "to".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-91-3282; FR-3062-N-01]

NOFA—Invitation for Section 8 Incentive Award Rental Vouchers and Rental Certificates in Connection With the Family Self-Sufficiency Program in FY 1991

Correction

In notice document 91-23313 beginning on page 49612 in the issue of Monday, September 30, 1991, make the following correction:

On page 49624, in Table 1, in the 5th column, in the 15th line, "13,411,463" should read "1,341,468".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 90-03]

Kenneth Behymer, M.D.; Revocation of Registration

Correction

In notice document 91-18426 beginning on page 37233 in the issue of Monday, August 5, 1991, make the following correction:

On page 37234, in the first column, in the third full paragraph, in the tenth line, "medicine" should read "methadone".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 2, 1991

Correction

In notice document 91-19273 appearing on page 40353 in the issue of Wednesday, August 14, 1991, in the second column, in the file line at the end of the document, "FR Doc. 91-19723" should read "FR Doc. 91-19273".

BILLING CODE 1505-01-D

federal register

Wednesday
October 30, 1991

Part II

The President

Executive Order 12779—Prohibiting Certain Transactions With Respect to Haiti

Digest

Federal Register
Vol. 56, No. 210
Wednesday, October 30, 1991

Presidential Documents

Title 3—

The President

Executive Order 12779 of October 28, 1991

Prohibiting Certain Transactions With Respect to Haiti

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code, and in view of Resolution MRE/RES. 2/91, adopted by the Ad Hoc Meeting of Ministers of Foreign Affairs of the Organization of American States on October 8, 1991, and in order to take additional steps with respect to the national emergency declared in Executive Order No. 12775 of October 4, 1991,

I, GEORGE BUSH, President of the United States of America, find that the grave events in the Republic of Haiti that are continuing to disrupt the legitimate exercise of power by the democratically elected government of that country continue to constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby order:

Section 1. Except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order, all property and interests in property of the Government of Haiti, its agencies, instrumentalities and controlled entities, including the Banque de la Republique d'Haiti, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked.

Sec. 2. Except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order:

(a) Any direct or indirect payments or transfers to the *de facto* regime in Haiti of funds, including currency, cash, or coins of any nation, or of other financial or investment assets or credits, by any United States person, or by any person organized under the laws of Haiti and owned or controlled by a United States person, are prohibited. All transfers or payments owed to the Government of Haiti shall be made when due into an account at the Federal Reserve Bank of New York, or as otherwise may be directed by the Secretary of the Treasury, to be held for the benefit of the Haitian people.

(b) Except as provided in subsection (d) of this section, the importation into the United States of any goods of Haitian origin, other than publications and other informational materials, or of services performed in Haiti, is prohibited.

(c) The exportation from the United States to Haiti, directly or indirectly, of any goods, technology (including technical data or other information controlled for export pursuant to the Export Administration Regulations, 15 C.F.R. Parts 768 *et seq.*), or services other than (i) publications and other informational materials; (ii) donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies; and (iii) rice, beans, sugar, wheat flour, and cooking oil, is prohibited.

(d) For a period of 30 days from the effective date of this order, goods containing parts or materials exported from the United States prior to the effective date of this order may be imported into the United States following assembly or processing in Haiti.

Sec. 3. For the purposes of this order:

(a) The term "*de facto* regime in Haiti" means those who seized power illegally from the democratically elected government of President Jean-Ber-

trand Aristide on September 30, 1991, and includes any persons, agencies, instrumentalities, or entities purporting to act on behalf of the *de facto* regime in Haiti, or under the asserted authority thereof, or any extraconstitutional successor thereto.

(b) The term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.

(c) The term "goods of Haitian origin" means goods grown, produced, manufactured, extracted, or processed in Haiti, or which have entered into Haitian commerce.

Sec. 4. The measures taken pursuant to this order are not intended to block private Haitian assets subject to the jurisdiction of the United States, or to prohibit remittances by United States persons to Haitian persons other than the *de facto* regime in Haiti.

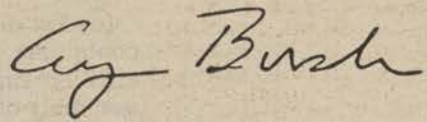
Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by the International Emergency Economic Powers Act, as may be necessary to carry out the purposes of this order. Such actions may include prohibiting or regulating payments or transfers of any property, or any transactions involving the transfer of anything of economic value, by any United States person to the *de facto* regime in Haiti; or prohibiting or regulating the provision of transportation between the United States and Haiti by any vessel or aircraft. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government, all agencies of which are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

Sec. 6. Unless otherwise specified, this order shall be effective as of 11:59 p.m., eastern standard time, November 5, 1991. Sections 1 and 2(a) of this order became effective at 12:23 p.m. on October 4, 1991, pursuant to Executive Order No. 12775.

Sec. 7. Nothing contained in this order shall confer any substantive or procedural right or privilege on any person or organization, enforceable against the United States, its agencies or its officers, or the Federal Reserve Bank of New York or its officers.

Sec. 8. Executive Order No. 12775 of October 4, 1991, is hereby revoked to the extent inconsistent with this order. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken pursuant to Executive Order No. 12775 and not revoked administratively shall remain in full force and effect under this order until amended, modified, or terminated by proper authority. The revocation of any provision of Executive Order No. 12775 pursuant to this section shall not affect any violation of any rules, regulations, orders, licenses, or other forms of administrative action pursuant to that order during the period that such provision of that order was in effect.

This order shall be transmitted to the Congress and published in the **Federal Register.**



THE WHITE HOUSE,
October 28, 1991.

[FR Doc. 91-26417
Filed 10-29-91; 11:45 am]
Billing code 3195-01-M

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