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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 92-095-1]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by removing and adding commuted traveltime allowances for travel between various locations in Florida, Oregon, South Carolina, Tennessee, and Washington. Commuted traveltime allowances are the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime between these locations.

EFFECTIVE DATE: October 14, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. George H. McFaden, Jr., Director, Resource Management Support, PPQ, APHIS, USDA, room 458, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR chapter I, subchapter D require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal byproducts, and other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of PPQ on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by removing and adding commuted traveltime allowances for travel between various locations in Florida, Oregon, South Carolina, Tennessee, and Washington. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

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.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the Federal Register.

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.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and

recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by removing or adding in the table, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
[Remove]			
* * * * *			
Florida:			
* * * * *			
Orlando		1½	
* * * * *			
Tennessee:			
* * * * *			
Memphis		1	
* * * * *			
Nashville		1	
Nashville	Jackson		5
* * * * *			
[Add]			
* * * * *			
Florida:			
* * * * *			
Orlando		2	
* * * * *			
Oregon:			
* * * * *			
The Dalles.	Ellensburg, WA.		6
* * * * *			
South Carolina:			
* * * * *			
Beaufort-Port Royal.	Yamassee		3
* * * * *			
Tennessee:			
* * * * *			
Memphis		2	
* * * * *			
Nashville		2	
* * * * *			
Nashville	Jackson		6
* * * * *			
Washington:			
* * * * *			
Ellensburg.		1	
* * * * *			
Ephrata	Ellensburg		3
* * * * *			
Moses Lake.	Ellensburg		3
* * * * *			
* * * * *			
Othello	Ellensburg		3

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
* * * * *			
* * * * *			
Pasco	Ellensburg		5
* * * * *			
* * * * *			
Richland	Ellensburg		5
* * * * *			
Royal City	Ellensburg		3
* * * * *			
Sawyer	Ellensburg		3
* * * * *			
Wenatchee.	Ellensburg		4
* * * * *			
* * * * *			
Yakima	Ellensburg		3
* * * * *			

Done in Washington, DC, this 7th day of October 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-24896 Filed 10-13-92; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Regulation J; Docket No. R-0722]

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting an amendment to its Regulation J to require paying banks that receive presentment of checks from a Federal Reserve Bank to settle for those checks as soon as one hour after receipt of the checks. This amendment is necessary to implement the procedures for posting debits and credits to depository institutions' reserve and clearing accounts in order to measure daylight overdrafts accurately under the Board's payments system risk reduction program. The intent of the program is to reduce both Federal Reserve and overall payments system risk. The Board is also making other technical and clarifying amendments to Regulation J.

EFFECTIVE DATE: October 14, 1993.

FOR FURTHER INFORMATION CONTACT: Oliver I. Ireland, Associate General Counsel (202/452-3625), Stephanie Martin, Senior Attorney (202/452-3198), Legal Division; or Florence M. Young, Assistant Director, Division of Reserve Bank Operations and Payment Systems (202/452-3955); for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: As part of its payments system risk reduction program, the Board has determined to charge a fee for daylight overdrafts in reserve and clearing accounts at Federal Reserve Banks. To measure daylight overdrafts accurately, the Board has adopted procedures under which debits and credits will be posted to reserve and clearing accounts for various transactions. (See Docket Nos. R-0668 and R-0721, elsewhere in today's **Federal Register**.) Under the measurement procedures adopted by the Board, debits and credits for check transactions will be posted throughout the business day, based on when checks are presented by Reserve Banks. When the intraday check posting procedure was published for comment in January 1991, the Board also requested comment on an amendment to Regulation J (12 CFR part 210) to allow Reserve Banks to debit the reserve and clearing accounts of banks [1] as early as one hour after presentment of checks (56 FR 3047, January 28, 1991). The Board has adopted the proposed amendments to Regulation J, modified as explained below.

Regulation J Before Amendment

Subpart A of Regulation J governs the collection of checks by Reserve Banks and applies to "all parties interested in an item handled by any Reserve bank." [2] Regulation J provides for deferred posting of checks, i.e., a paying bank can wait until the day after presentment to decide whether to pay or return a check if it settles for the check on the day of presentment. Deferred posting allows banks more time to process checks internally than they would have if the checks were presented over the counter for immediate payment in cash and is essential to the methods currently used by paying banks in determining whether to pay checks.

Before adoption of the amendments published today (which are effective October 14, 1993), § 210.9(a)(1) of Regulation J had provided that a paying bank would become accountable for a check presented by a Reserve Bank unless it settled for or returned the

[1] Under Regulation J, bank includes all depository institutions, such as commercial banks, savings and loan associations, and credit unions Regulation J defines paying bank as the bank by, at, or through which an item is payable or collectible and to which it is sent for payment or collection, or the bank whose routing number appears on the item and to which it is sent for payment or collection. (12 CFR 210.2(b) and (j)).

[2] 12 CFR 210.3(b).

check by the close of its banking day on which it received the check.[3] Section 210.9(a)(2) of Regulation J specified that settlement proceeds must be available to the Reserve Bank by the close of the Reserve Bank's banking day on the day the paying bank received the checks. Under these two provisions, it appeared that a paying bank had to settle for a check presented to it by a Reserve Bank by the close of its banking day or the close of the Reserve Bank's banking day, whichever was earlier. As a practical matter, in many cases this time was likely to be mid-afternoon, when the paying bank closed its lobby. Generally, if settlement was made under Regulation J, the paying bank could exercise deferred posting and return the check before midnight of its next banking day in accordance with § 4–301 of the Uniform Commercial Code (UCC).[4]

Although the UCC allows deferred posting of checks, the time for settlement by paying banks under the UCC differs from the time for settlement by paying banks for checks presented under Regulation J. Section 4–302 of the UCC provides that a paying bank becomes accountable for a check unless it settles for or returns the check before midnight on the banking day it receives the check. If the UCC settlement obligation is met the paying bank may exercise deferred posting under UCC § 4–301. Thus, Regulation J requires the paying bank to settle for a check presented by a Reserve Bank at an earlier time than does the UCC if it wishes to retain the right to return the check on the next banking day.[5]

Reserve Banks may enter into agreements with paying banks to alter the settlement time for checks presented by Reserve Banks, and the Board has the ability to make further changes regarding the collection of checks under the authority of the Federal Reserve Act. Section 16(14) of the Act authorizes the Board to make regulations concerning the transfer of funds among Reserve Banks and to require Reserve Banks to act as clearing houses for other Reserve Banks and for depository institutions. Section 13 of the Act authorizes Reserve Banks to engage in check collection on behalf of members and non-members, and section 11 grants the Board general supervisory and rulemaking authority over Reserve Bank activities.[6]

Amended Regulation J

The primary purpose of the Board's 1991 Regulation J proposal was to allow Reserve Banks to debit paying banks' accounts for presented checks during the day for purposes of measuring daylight overdrafts under the risk reduction program. The proposal also included amendments intended to clarify the accountability provisions of the regulation and to explain the rules that would apply on days when either the Reserve Bank or the paying bank was closed. The Board received 65 comments that specifically addressed the proposed amendments to Regulation J. Many other commenters suggested that the proposed check posting procedures in Docket R–0721 be modified and also suggested that Regulation J be amended to reflect those revisions or delayed until new posting procedures were developed. Three commenters supported the Regulation J changes overall. One commenter conditioned support on the adoption of pricing and another on the ability of depository institutions to monitor their accounts on a real-time basis.

Timing of Settlement to Avoid Overdraft Charges

The proposed amendments to § 210.9(a)(2) of Regulation J required a paying bank to settle with a Reserve Bank for checks, or return the checks, by the end of the clock hour after the hour during which presentment had taken place,[7] or by one hour after the scheduled opening of Fedwire, whichever was later (or by such later time as provided in the Reserve Bank's operating circular).

The proposed amendments provided that if the proceeds of the settlement were not available within the designated time frame and the check was not returned, the paying bank would be subject to any applicable overdraft charges. The Board has adopted the proposed amendments with minor revisions and clarifying changes in the regulatory format.

The Board received 34 comments on the proposed amendments to § 210.9(a)(2) regarding the timing of settlement to avoid overdraft charges. Twenty-four commenters stated that a time frame of one or two hours between presentment and settlement is too short, nine commenters supported the proposed time frame, and one commenter suggested that check transactions be posted on the hour after presentment regardless of how much time has passed.

Generally, the commenters who opposed the settlement timing proposal stated that one hour does not allow sufficient time for a paying bank to verify receipt, examine cash letters, and settle for or return checks. Five commenters suggested lengthening the time between presentment and settlement to two or three hours, and one commenter suggested settlement be delayed until just before the close of Fedwire.

The Board believes that the cash letter verification practices of most paying banks would be unaffected by a settlement deadline of at least one hour after presentment. Generally, all checks now presented by the Federal Reserve for same-day settlement are received by the paying bank by 2 p.m., local time. Although Regulation J generally has provided an opportunity for the paying bank to examine the checks to decide whether to settle for or return them by the close of business, this time period permitted only limited verification of cash letters. For example, a paying bank could verify that a cash letter had been received, but usually could not examine individual checks prior to settling for the cash letter at the close of business. This limited verification, however, is consistent with the theory and practice of deferred posting of checks under the UCC. Paying banks generally do not examine checks individually until after the close of business on the day of presentment or during the following day. Under the Regulation J amendment, paying banks would continue to have at least one hour to verify the receipt of a cash letter before settling for it or to return the cash letter and avoid having to settle for it.

Four commenters noted that the earlier settlement time would have a negative impact on controlled disbursement and cash management practices because customer accounts would have to be funded earlier in the

[3] Settlement under regulation J (both before and after amendment) must be by a debit to an account on the books of the Reserve Bank, cash, or other form of payment agreed to by the Reserve Bank.

[4] UCC § 4–301 provides that if a paying bank settles for a check by midnight on the banking day of receipt, it may return the check or send notice of nonpayment by midnight of the banking day following the banking day of receipt.

[5] In addition, the means of settlement that a paying bank may use to meet this obligation are more limited under Regulation J than under the UCC.

[6] The Board's authority to set the time and form of settlement for checks presented by Reserve Banks has been upheld by the courts on two occasions. See *Community Bank* v. *Federal Reserve Bank of San Francisco*, 500 F.2d 292 (9th Cir. 1974), and *Independent Bankers Association of America v. Board of Governors of the Federal Reserve System*, 500 F.2d 812 (D.C. Cir. 1974).

[7] For example, a paying bank would have to settle for checks presented at 12:30 p.m. ET by 2:00 p.m. ET. Generally, paying banks authorize Reserve Banks, through an autocharge agreement, to debit their reserve or clearing accounts for the amount of checks presented. This authorization would constitute settlement for the checks even if the Reserve Bank did not post the charge to the paying bank's account until after the time at which the settlement obligation arose.

day. Seven commenters expressed concern that banks would be unable to allocate check debits to their customers or respondents within one hour to determine overdraft positions and thus would be unable to motivate behavioral changes through direct pricing.

Although it is true that paying banks wishing to prevent daylight overdrafts caused by check debits might have to require earlier funding of their customers' accounts, collecting banks and their customers will benefit from earlier crediting of checks to reserve and clearing accounts. The Board believes that most paying banks could require controlled disbursement customers to fund their accounts based on estimated presentments rather than expending resources to determine the exact amount of checks to be presented by the Federal Reserve each day. Further, the Board believes that only a relatively small number of banks will change their internal tracking and posting systems in order to charge customers for their use of daylight credit. Over 90 percent of the institutions covered by the risk reduction policy will not exceed their net debit caps or incur daylight overdraft charges, and thus would not be likely to undertake costly system changes. A few banks may incur overdraft charges in amounts high enough to justify system changes. These banks would likely make such system changes even if settlement for checks presented by Reserve Banks were not required until the close of business, due to their need to track other types of payment transactions.

Three of the commenters in support of the proposal conditioned their support on the establishment of an adjustment process as part of the posting procedures to correct for early or erroneous debits that may have caused daylight overdrafts. Another commenter suggested that explicit adjustment procedures be included in Regulation J. Five commenters objected to basing the timing of check debits on expected presentment times, stating that Reserve Bank courier schedules are often unpredictable and can vary by as much as an hour.

When the Reserve Bank presents checks via courier, the checks will generally arrive at the paying bank at the same time each day, but could arrive any time before 2 p.m. The Reserve Banks will make adjustments in overdraft charges if a presentment is reported to have been made late (and a reserve or clearing account is debited too early) or if the amount of a debit is incorrect.

Four commenters stated that the proposal did not allow enough time for the paying banks to transport checks from their presentment point to their correspondent or processing center, and thus they would be unable to verify receipt or cash letter totals. The Board recognizes that there may be a limited number of cases when paying banks that have established presentment points at locations distant from their processing centers will be unable to transport and verify cash letters within an hour after presentment. These paying banks may wish to select new presentment locations. The Board believes that, in most cases, one hour is sufficient time for paying banks to verify that presentment was made and transport cash letters to their processing center. Reserve Banks often deliver directly to paying banks' processing centers.

One commenter suggested that the settlement time should be triggered by the receipt of the final check bundle for those institutions that receive multiple presentments from the Reserve Bank. Another commenter suggested that the Board clarify that presentment occurs when the paying bank has picked up the checks at the Reserve Bank or when the Reserve Bank courier has delivered the checks to the paying bank. Generally, presentment by a Reserve Bank occurs when a check is delivered to the paying bank or made available for pick-up at a presentment point designated by the paying bank. The Reserve Bank may present more than one cash letter each day, and the time for settlement for each cash letter is triggered by the presentment of that cash letter.

One commenter suggested that the Board clarify whether a paying bank may return an entire cash letter before the end of its banking day and how much a return would affect settlement. Under amended Regulation J, a paying bank can avoid incurring any overdraft charges that would have resulted from settlement by sending a cash letter for return by the next clock hour that is at least one hour after presentment or by one hour after the scheduled opening of Fedwire, whichever is later (or by a later time as provided in the Reserve Bank's operating circular). As discussed below, the paying bank may avoid accountability for that cash letter by sending it for return before the close of Fedwire or the close of its banking day, whichever is later. Both of these return deadlines (the deadline for avoiding overdraft charges and the deadline for avoiding accountability) may be extended under certain conditions, in accordance with § 229.30(c) of Regulation CC (12 CFR 229.30(c)).

Six commenters addressed the question whether the Reserve Bank should debit a paying bank's account before physical presentment of the checks. Three commenters from the west coast were opposed to such a practice because the paying bank would not be able to verify receipt or examine the cash letter totals before settlement. One California bank noted that setting a uniform settlement time without regard to the time of presentment would likely put east coast banks at a comparative advantage because they normally receive presentment earlier than west coast banks and would likely have more time to inspect the cash letter before settling. Three commenters suggested that the Board consider requiring settlement before physical presentment, perhaps based on electronic notification of cash letter information.

Section 609(b)(1) of the Expedited Fund Availability Act (12 U.S.C. 4008(b)(1)) provides that the Board shall consider requiring regulation that banks be charged based upon notification that a check or similar instrument will be presented for payment. The Federal Reserve studied the feasibility of mandatory and voluntary electronic presentment in the Electronic Clearinghouse Study, submitted to Congress in August 1988. Although electronic presentment is feasible given current technology, the study concluded that the benefits of mandatory electronic presentment would be outweighed by the potential risks borne by the paying banks. Paying banks may wish to participate in voluntary electronic presentment arrangements with Reserve banks or other presenting banks. Absent such an arrangement, the Board believes it is appropriate to require settlement only after physical presentment so that the paying bank will have the opportunity to verify receipt of the cash letter.

Accountability and Banking Day Definition.

The amendments to § 210.9(a)(1), as proposed, provided that as long as either the proceeds of a settlement for presented checks are available to the Reserve Bank by close of Fedwire on the day the paying bank receives the check or the paying bank returns the check before the close of its banking day,[8] the paying bank would not be accountable for the check and would be able to exercise deferred posting. The Board also proposed a technical revision to the definition of "banking day" to

[8] The deadline for returning a check without settling for it maybe extended in certain cases in accordance with § 229.30(c) of Regulation CC (12 CFR 229.30(c)).

correspond to the definition in UCC § 4–104(a)(3) (1990 version). The Board has adopted the proposed amendments with two substantive changes: (1) the paying bank may avoid accountability by returning a check by the later of the close of its banking day or the close of Fedwire, and (2) the paying bank will be accountable as of the close of its banking day or the close of Fedwire, whichever is earlier, if it fails to settle or return by the deadline established in § 210.9(a)(1). The former change was made in response to a commenter's suggestion, as explained below. The latter change was made to ensure that, if a paying bank fails to settle for a check presented by a Reserve Bank and becomes insolvent after the close of business but before the close of Fedwire, the failed paying bank's accountability for the check would be fixed at its close of business and prior to its insolvency. The Board has also reformatted § 210.9(a)(1) for clarity, adopted the proposed definition of "Fedwire," added a definition of "clock hour," and revised the definition of "item" to correct an erroneous cross-reference.

Three commenters suggested that a paying bank should be free from accountability if it returns a check without settling for it by the close of Fedwire, rather than by the close of its banking day as proposed. The commenters argued that, under the previous version of Regulation J, a paying bank's banking day could be interpreted to close at the close of Fedwire, but the proposed incorporation of the UCC definition of "banking day" would negate such an interpretation, requiring a paying bank to take action before the time it closes its lobby, often 2 p.m. or 3 p.m., if it wanted to return a check without settling for it. As noted above, the Board amended the proposed regulation to allow a paying bank to avoid accountability by returning a check by the close of Fedwire or the close of its banking day, whichever is later.

Three commenters suggested that Regulation J incorporate the Regulation CC, rather than the UCC, definition of banking day. The Regulation CC definition mirrors and UCC banking day definition except that Regulation CC requires a banking day to be a part of a business day, which is generally defined to be all weekdays except federal holidays (see 12 CFR 229.2(f) and (g)). Three commenters requested clarification that the Reserve Banks would not present checks on banking days that are not business days under the Regulation CC definition.

The Reserve Banks are not open on days, such as weekends and federal holidays, that are not business days under Regulation CC. Paying banks will not receive presentment of checks on such days, except in rare circumstances when a cash letter that is mailed to a paying bank arrives on a Saturday or when a Reserve Bank closes early due to an emergency but Federal Reserve couriers continue to deliver checks. Thus, in the vast majority of cases, a Reserve Bank banking day under Regulation J will always be a Regulation CC banking day.

Reserve Bank or Paying Bank Closed

Proposed § 210.9(a)(3) addressed the situation in which either the Reserve Bank or the paying bank is closed on the day of presentment. One commenter supported these provisions without discussion. One commenter suggested that these provisions would be more appropriate in the Reserve Bank's operating circulars than in Regulation J. Although these occasions may be rare, the Board believes that they should be addressed in Regulation J. The Board has adopted the substance of the amendments as proposed, but has reformatted the regulatory language for purposes of clarification.

Under § 210.9(a)(3) (proposed § 210.9(a)(3)(ii)), if the paying bank voluntarily closes on a day the Reserve Bank is open, either for the entire day or before it receives its check presentment from the Reserve Bank, it must either (1) return or settle for checks by the next clock hour that is at least one hour after it would ordinarily receive the checks, or by one hour after the scheduled opening of Fedwire, whichever is later, or by such later time as is provided in the Reserve Bank's operating circular; or (2) settle by one hour after the scheduled opening of Fedwire on the next day on which both the paying bank and the Reserve Bank are open, or by such later time as is provided in the Reserve Bank's operating circular, and compensate the Reserve Bank for the interday float. Failure to settle by these times could result in the imposition of daylight overdraft charges, but for accountability purposes, the checks will not be considered received until the paying bank's next banking day.

One commenter requested clarification as to what constitutes a "voluntary" closing. The commenter stated that if closing is mandated by state law, the paying bank should not be assessed overdraft fees if the Reserve Bank debits its account for check presentments on that day. Closings mandated by state law are not voluntary, and thus the paying bank would not be liable for interest compensation or overdraft charges under Regulation J. However, most state holidays are not mandatory bank holidays, and if a bank chooses to close on such a holiday, its closing would be considered voluntary under Regulation J.

Under § 210.9(a)(4) (proposed § 210.9(a)(3)(i)), if the Reserve Bank is closed on the day the paying bank receives presentment of a check, the paying bank will be accountable for the check unless it returns the check by midnight or settles for the check by the close of Fedwire on the Reserve Bank's next banking day. In addition, if the Reserve Bank is closed on the day the paying bank receives presentment of a check, the paying bank will be subject to any applicable daylight overdraft charges on the day the Reserve Bank charges the paying bank's account unless the paying bank either returns the check by midnight on the day of presentment or settles for the check by one hour after the scheduled opening of Fedwire on the Reserve Bank's next banking day or by such later time as provided in the Reserve Bank's operating circular.

One commenter stated that the Reserve Banks should not present checks on days that are not Federal Reserve banking days because the possibility of a daylight overdraft caused by the early morning settlement time for such checks (one hour after the opening of Fedwire on the next Reserve Bank banking day or such later time as provided in the Reserve Bank's operating circular) would discourage banks from offering services on weekends and holidays. As discussed above, paying banks will ordinarily not receive presentment of checks on days the Reserve Bank is closed, except in rare circumstances where a cash letter that is mailed to a paying bank arrives on a Saturday or when a Reserve Bank closes due to an emergency. The Board does not believe that requiring the paying bank to settle for such checks on the next day the Reserve Bank is open will discourage weekend or holiday service in most cases.

Amendment to Subpart B

To implement pricing of overdrafts, the Board proposed an amendment to Subpart B of Regulation J, Wire Transfers of Funds. Under the amendment, an account at a Reserve Bank would be subject explicitly to any applicable overdraft charges resulting from funds transfers.

The Board received seven comments on the proposed Subpart B amendment. Three commenters voiced reservation

about the amendment based on their concerns regarding the proposed posting procedures and their doubts about their ability to reconcile their internal accounting systems with those of the Federal Reserve. Two commenters supported the amendment if pricing is eventually adopted. One commenter suggested that the Board seek public comment on pricing again before adopting the amendment. One commenter suggested that the amendment would be more appropriate in the Reserve Bank's operating circulars than in Regulation J. The Board believes that it is appropriate to amend Subpart B to implement overdraft pricing and thus has adopted the amendment.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The amendments will apply to all banks that receive presentment of checks from Federal Reserve Banks, regardless of size. The economic impact of the Regulation J amendments on small banks should be minimal. There are no significant alternatives to the amendments that will minimize the effect on small banks, given the Board's adoption of a daylight overdraft pricing program that applies to all banks. The Board's pricing program includes a percent-of-capital deductible and the waiver of fees that do not exceed $25 over a two-week reserve maintenance period. The Board expects that small overdrafts incurred by many small banks (relative to their capital) will be covered by the deductible or the waiver and, therefore, exempt from pricing. In addition, the amendments should not require operational changes by small banks that incur small or no overdrafts.

Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial effect on payments system participants.[9] Under these procedures, the Board will assess whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such legal differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the anticipated benefits are significant enough to proceed with the change despite the adverse effects.

The Board believes that, when considered alone, the amendment to Regulation J might have a direct and material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks' payments services. The amendment will enable Reserve Banks to obtain settlement in immediately available funds for checks presented to paying banks as early as one hour after presentment. In turn, Reserve Banks will be able to give credit for checks they collect earlier in the day without incurring intraday float. Private-sector collecting banks ordinarily can not obtain settlement within a comparable time or in a comparable form without entering into an agreement with the paying bank or paying presentment fees, or both. The Board requested comment, in light of the other modifications to the payments system risk reduction program and its proposal on same-day settlement for private-sector presentment (56 FR 4743, February 6, 1991), on whether the ability to use check credits during the day outweighs the negative effects of being charged for checks intraday under the proposed Regulation J amendment. (The Board has recently adopted a same-day settlement rule—see docket R–0723, elsewhere in today's **Federal Register**.)

Fourteen commenters addressed the competitive impact of the proposed amendment to Regulation J. Nine commenters urged the Board to adopt similar settlement times in both Regulation J and the proposed amendments to Regulation CC regarding same-day settlement. These commenters stated that consistent settlement times in Regulations J and CC would aid in providing for more competitive equality between the Reserve Banks and private-sector presenting banks. Five commenters opposed applying the proposed Regulation settlement time to the same-day settlement rules. They believed that doing so would significantly increase their risk exposure under same-day settlement because they would be forced to accept presentment from and settle within a short time frame with banks with which they have no established relationship.

One commercial bank stated that the advantage the Regulation J amendment would provide to the Reserve Banks in the check collection business far outweighs other mitigating factors, such as the ability for clearing houses to set their own settlement time and the same-day settlement proposal. The commenter argued that the total effect of all of the proposals will hurt private sector collecting banks to a greater extent than the Reserve Banks, giving the Reserve Banks a significant competitive advantage.

A check transportation corporation argued that the Regulation J amendments would give a competitive advantage to the Reserve Banks because it is difficult for banks and clearing houses to establish settlement mechanisms that are independent of Fedwire. The commenters stated that competing with Fedwire is difficult because Fedwire pricing doesn't include a cost component for the intraday value of money or credit risk, and the Reserve Banks do not pay interest on reserve or clearing account balances.

The Board believes the Regulation J amendment should be considered within the context of the modifications to the risk reduction program regarding pricing and overdraft measurement and the Board's recent amendment to Regulation CC regarding same-day settlement for private-sector collecting banks. In this context, the Board believes that the benefits of the Regulation J amendment in facilitating the risk reduction program and enabling Reserve Banks to accelerate availability of check deposits are significant enough to outweigh the adverse effects.

The Board's goal of achieving accurate measurement of daylight overdrafts without incurring intraday float could be met by posting credits and debits for checks presented by Reserve Banks after the close of business, as originally proposed in June 1989 (54 FR 26094, June 21, 1989). The Board's June 1989 proposal for overdraft measurement would not have required an amendment to Regulation J and

[9] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System," as revised in March 1990 (55 FR 11648, March 29, 1990).

therefore would not have caused adverse competitive effects. A majority of the commenters to the June 1989 proposal, however, requested that check credits and debits be posted earlier in the day to allow intraday use of funds by collecting banks. These commenters stated that earlier credits for checks were necessary to avoid disruption of cash management practices and to allow investment of excess reserve balances. These comments indicated that the benefits of early check credits would outweigh the adverse competitive effects of earlier check debits.

Many of the adverse effects on the Federal Reserve's competitors in the check collection system will be mitigated by the benefits of the overdraft measurement procedures. The primary benefit will be the intraday posting of check credits, so that banks may use those funds during the day. Correspondent banks that clear checks on behalf of respondents will be able to make payments to their respondents for any checks collected through the Federal Reserve on the settlement day without incurring daylight overdrafts, provided that the timing of payments to respondents followed the receipt of credit from the Federal Reserve. In addition, banks participating in private clearing houses will be able to establish the time at which net settlement entries for the checks exchanged among participants will be posted to reserve and clearing accounts. Thus, the participants will be able to control the time at which credits and debits will be posted to their accounts.

The Board's same-day settlement rule gives private collecting banks rights to receive settlement from paying banks that are closer to the rights the Reserve Banks have under Regulation J. The same-day settlement rule mitigates some of the adverse competitive effects caused by the Regulation J amendment. The issues relating to the conformity of settlement times for checks presented by Reserve Banks under Regulation J and by private-sector banks under Regulation CC were raised in the context of the same-day settlement proposal and are addressed in Docket R–0723, elsewhere in today's **Federal Register**.

List of Subjects in 12 CFR Part 210

Banks, banking, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 210 is amended as follows:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE (REGULATION J)

1. The authority citation for part 210 continues to read as follows:

Authority: Federal Reserve Act, sec. 13 (12 U.S.C. 342), sec. 11 (i) and (j) (12 U.S.C. 248 (i) and (j)), sec. 16 (12 U.S.C. 248(o) and 360), and sec. 19(f) (12 U.S.C. 464); and the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.)*

2. Section 210.2 is amended by revising paragraph (d) and the last sentence of the undesignated paragraph following paragraph (g)(3) and adding new paragraphs (n) and (o) to read as follows:

§ 210.2 Definitions.

* * * * *

(d) *Banking day* means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

* * * * *

(g) * * * *Item* does not include a check that cannot be collected at par, or a *payment order* as defined in § 210.26(i) and handled under subpart B of this part.

* * * * *

(n) *Clock hour* means a time that is on the hour, such as 1:00, 2:00, etc.

(o) *Fedwire* has the same meaning as that set forth in § 210.26(e).

* * * * *

3. Section 210.9 is amended by revising the heading and paragraph (a) to read as follows:

§ 210.9 Settlement and payment.

(a) *Cash items.* (1) On the day a paying bank receives [2] a cash item directly or indirectly from a Reserve Bank, it shall settle for the item such that the proceeds of the settlement are available to the Reserve Bank by the close of Fedwire on that day, or it shall return the item by the later of the close of the paying bank's banking day or the close of Fedwire. If the paying bank fails to settle for or return a cash item in accordance with this paragraph (a)(1), it is accountable for the amount of the item as of the close of its banking day or the close of Fedwire on the day it receives the item, whichever is earlier.

(2)(i) On the day a paying bank receives a cash item directly or indirectly from a Reserve Bank, it shall settle for the item so that the proceeds of the settlement are available to the Reserve Bank, or return the item, by the latest of:

(A) The next clock hour that is at least one hour after the paying bank receives the item;

(B) One hour after the scheduled opening of Fedwire; or

(C) Such later time as provided in the Reserve Bank's operating circular.

(ii) If the paying bank fails to settle for or return a cash item in accordance with paragraph (a)(2)(i) of this section, it shall be subject to any applicable overdraft charges. Settlement under paragraph (a)(2)(i) of this section satisfies the settlement requirements of paragraph (a)(1) of this section.

(3)(i) If a paying bank closes voluntarily on a day that is a banking day for a Reserve Bank, and the Reserve Bank makes a cash item available to the paying bank on that day, the paying bank shall either:

(A) On that day, settle for the item so that the proceeds of the settlement are available to the Reserve Bank, or return the item, by the latest of:

(*1*) The next clock hour that is at least one hour after the paying bank ordinarily would have received the item;

(*2*) One hour after the scheduled opening of Fedwire; or

(*3*) Such later time as provided in the Reserve Bank's operating circular; or

(B) On the next day that is a banking day for both the paying bank and the Reserve Bank, settle for the item so that the proceeds of the settlement are available to the Reserve Bank by the later of:

(*1*) One hour after the scheduled opening of Fedwire on that day; or

(*2*) Such later time as provided in the Reserve Bank's operating circular;

and compensate the Reserve Bank for the value of the float associated with the item in accordance with procedures provided in the Reserve Bank's operating circular.

(ii) If a paying bank closes voluntarily on a day that is a banking day for a Reserve Bank, and the Reserve Bank makes a cash item available to the paying bank on that day, the paying bank is not considered to have received the item until its next banking day, but it shall be subject to any applicable overdraft charges if it fails to settle for or return the item in accordance with paragraph (a)(3)(i) of this section. The settlement requirements of paragraphs (a)(1) and (a)(2) of this section do not apply to a paying bank that settles in accordance with paragraph (a)(3)(i) of this section.

[2] A paying bank is deemed to receive a cash item on its next banking day if it receives the item:

(1) On a day other than a banking day for it; or

(2) On a banking day for it, but after a "cut-off hour" established by it in accordance with state law.

(4)(i) If a paying bank receives a cash item directly or indirectly from a Reserve Bank on a banking day that is not a banking day for the Reserve Bank:

(A) The paying bank shall:

(*1*) Settle for the item so that the proceeds of the settlement are available to the Reserve Bank by the close of Fedwire on the Reserve Bank's next banking day; or

(*2*) Return the item by midnight of the day it receives the item.

If the paying bank fails to settle for or return a cash item in accordance with this paragraph (a)(4)(i)(A), it shall become accountable for the amount of the item as of the close of its banking day on the day it receives the item.

(B) The paying bank shall:

(*1*) Settle for the item so that the proceeds of the settlement are available to the Reserve Bank by one hour after the scheduled opening of Fedwire on the Reserve Bank's next banking day or such later time as provided in the Reserve Bank's operating circular; or

(*2*) Return the item by midnight of the day it receives the item.

If the paying bank fails to settle for or return a cash item in accordance with this paragraph (a)(4)(i)(B), it shall be subject to any applicable overdraft charges. Settlement under this paragraph (a)(4)(i)(B) satisfies the settlement requirements of paragraph (a)(4)(i)(A) of this section.

(ii) The settlement requirements of paragraphs (a)(1) and (a)(2) of this section do not apply to a paying bank that settles in accordance with paragraph (a)(4)(i) of this section.

(5) Settlement with a Reserve Bank under paragraphs (a)(1) through (4) of this section shall be made by debit to an account on the Reserve Bank's books, cash, or other form of settlement to which the Reserve Bank agrees.

(6) If a cash item is unavailable for return, the paying bank may send a notice in lieu of return as provided in § 229.30(f) of this title.

* * * * *

4. Section 210.28 is amended by adding a new paragraph (b)(5) to read as follows:

§ 210.28 Agreement of sender.

* * * * *

(b) * * *

(5) If a sender, other than a government sender described in § 210.25(d), incurs an overdraft in its account as a result of a debit to the account by a Federal Reserve Bank under paragraph (a) of this section, the account will be subject to any applicable overdraft charges, regardless of whether the overdraft has become due and payable. A Federal Reserve Bank may debit a sender's account under paragraph (a) of this section immediately on acceptance of the payment order.

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 6, 1992.

William W. Wiles,

Secretary of the Board.

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12 CFR Part 229

[Regulation CC; Docket No. R-0723]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has adopted amendments to its Regulation CC to require paying banks to provide same-day settlement for checks presented by 8 a.m. local time at specified locations. The amendments will eliminate presentment fees for these checks and thereby facilitate their collection. The Board has adopted these amendments pursuant to its responsibilities under the Expedited Funds Availability Act to regulate the receipt, payment, collection, or clearing of checks in order to carry out the provisions of the Act and to improve the check collection system.

EFFECTIVE DATE: January 3, 1994.

FOR FURTHER INFORMATION CONTACT: Louise L. Rosenman, Assistant Director (202/452-2789) or Kathleen M. Connor, Senior Financial Services Analyst (202/452-3917), Division of Reserve Bank Operations and Payment Systems; Oliver Ireland, Associate General Counsel (202/452-3625), or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division. For further information on the economic impact analysis, contact Richard J. Rosen, Economist (202/452-2442), Division of Research and Statistics. For the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

Background

To address concerns about the practice of delayed availability—the placing of holds by some depository institutions on the proceeds of checks deposited into their customers' accounts before allowing the funds to be withdrawn—Congress passed the Expedited Fund Availability Act (Act) (12 U.S.C. 4001-4010). The Act specifies maximum time limits on the holds that depository institutions may place on funds deposited into transaction accounts.

Prior to enactment of the Act, some depository institutions had argued that their availability schedules reflected the time needed for the collection and return of unpaid checks and provided protection against the risk that the depository institution could not recover funds from the depositor if the check proceeds had already been withdrawn from the depositor's account. In part to reduce the risk to depository institutions from the Act's requirements that funds be made available for withdrawal within a certain period of time, Congress granted the Board broad regulatory authority to make improvements to the check collection and return system. Section 609(c) of the Act (12 U.S.C. 4008(c)) provides that the Board, in order to carry out the provisions of the Act, has the responsibility to regulate any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and any related function of the payment system with respect to checks. In addition, section 609(b) of the Act (12 U.S.C. 4008(b)) directs the Board to consider proposals to improve the check processing system.

The Board's Regulation CC (12 CFR part 229), which implements the Act, includes a number of provisions designed to improve and accelerate the collection and return of checks. The Board believes it also is possible to make further improvements to the forward collection process by enhancing the presentment abilities of private-sector banks.[1] Today, the Reserve Banks generally receive same-day settlement for checks presented to paying banks prior to 2 p.m. by debiting the account of the paying bank, or its correspondent settlement agent, held at a Reserve Bank. The General Accounting Office (GAO) found that private-sector banks, such as

[1] Regulation CC defines *bank* to include all depository institutions, such as commercial banks, savings institutions, and credit unions and, for the purposes of Subpart C, any person engaged in the business of banking. A *depository bank* is the first bank to which a check is transferred. A *paying bank* is a bank by, at, or through which a check is payable and to which it is sent for collection. The Uniform Commercial Code defines *collecting bank* as a bank, other than the paying bank, that handles a check for collection. An *intermediary bank* is a bank to which a check is transferred in the course of collection, other than the depository bank or the paying bank. A *presenting bank* is a bank, other than the paying bank, that presents a check. As used in this docket, the term *private-sector bank* means any bank (including a Federal Home Loan Bank) other than a Federal Reserve Bank.

correspondent banks, frequently are unable to obtain settlement terms as favorable as those available to the Federal Reserve.[2] Specifically, the GAO found that some paying banks impose barriers to presentment, including presentment fees [3] and requirements to maintain balances at the paying bank. Banks impose these barriers to obtain an additional source of revenue, to facilitate the provision of controlled disbursement services to their corporate customers,[4] to delay the presentment of checks, and/or to govern the timing of check presentments so as to maximize the efficient use of processing resources.

Presentment of and settlement for checks between banks is governed generally by Articles 3 and 4 of the Uniform Commercial Code (UCC). The UCC neither explicitly sanctions nor explicitly prohibits the use of barriers to same-day settlement. Thus, delayed settlement for checks between banks or the payment of presentment fees to obtain same-day settlement has become a common business practice despite the fact that most checks are payable on demand.[5]

The Board believes that barriers to presentment reduce the efficiency of the check system, and of the payments system more generally. In April 1988, the Board issued for public comment a concept whereby paying banks would be required to pay for checks, presented by any bank, prior to 2 p.m. local time in same-day funds, without imposing presentment fees (53 FR 11911, April 11, 1988). The proposed concept would have given private-sector collecting banks essentially the same presentment abilities as Reserve Banks.[6] The Board requested comment to help determine the operational effects of the proposed concept and received 1148 comments. The overwhelming majority of the commenters objected to the proposed 2 p.m. deadline because they believed that it would severely disrupt corporate cash management and controlled disbursement services as well as paying banks' operations.

Based on an analysis of the comments received, in January 1991 the Board proposed amendments to Regulation CC that would require paying banks to settle for checks presented by private-sector banks on the day of presentment without the imposition of presentment fees, if specified conditions are met (56 FR 4743, February 6, 1991). The proposal provided for an 8 a.m. (local time of the paying bank) presentment deadline for same-day settlement for checks presented by private-sector banks.

The Board received 291 comments on the proposal.[7] One hundred thirty commenters opposed the proposal. The majority of these commenters' concerns related to the paying bank's flexibility in specifying the location for presentment of checks, advance notice to the paying bank, risks to the paying bank of accepting presentments from banks in poor financial condition, and the deadline for presentment under the rule.

Thirty-one commenters supported the proposal. An additional 35 commenters indicated support for the proposal if suggested modifications were incorporated. The majority of the suggested modifications related to the designation of the presentment location, advance notice and quality standard requirements, the presentment deadline, and requirements for electronic presentment. Commenters that addressed the competitive effects of the proposal generally believed that it would promote competition for check collection services between the Federal Reserve and private-sector banks providing check collection services.

Fifteen commenters supported the Board's objective to improve the check collection system but did not believe the Board's proposal would achieve this objective. Eighty commenters raised issues with respect to the proposal but did not explicitly state overall support or opposition for the proposed rule.

The Board has adopted a modified version of its 1991 proposal. The final rule provides that a payment bank must settle for a check by the close of Fedwire on the day of presentment, without imposing a presentment fee, if the check is presented by 8 a.m. (local time of the place of presentment) at a location designated by the paying bank. The paying bank does not have to settle for the check if it returns the check before the close of Fedwire on the day of presentment. The final rule differs from the proposed rule in that the presentment site need not be a location of the paying bank, but may be an alternative location, such as an intercept point or a processing center, as long as the location is in the check processing region consistent with the routing number on the check. The final rule also provides that the paying bank may establish reasonable delivery requirements, such as the use of a night depository. This provision will provide an incentive for presenting banks to contact paying banks in advance of presentment to determine what delivery requirements have been established. Like the proposed rule, the final rule requires settlement by credit to an account at a Reserve Bank and holds all parties to a good faith standard. The provisions of the rule may be varied by agreement.

The Board also has expanded the proposed warranties. The Board proposed that the presented bank warrant that the settlement demanded equal the sum of the amounts encoded in the MICR lines on the checks presented. Under the final rule, all banks in the forward collection and return chain warrant that the total amount demanded or indicated on the cash letter equals the total amount of checks or returned checks presented or transferred. In addition, under the final rule, all banks in the forward collection or return chain warrant that the MICR encoding on a check or returned check is correct. The final rule also provides that the paying bank may set off any excess settlement previously made against settlement owed to the presenting bank for checks presented subsequently. Finally, the rule gives a paying bank a preferred claim against a closed presenting bank that breached an amount or encoding warranty and did

[2] United States General Accounting Office, *Check Collection: Competitive Fairness is an Elusive Goal*, May 1989.

[3] Presentment fees are charges that certain paying banks charge private-sector banks making presentment.

[4] Banks offering controlled disbursement services notify their corporate customers early in the day of the amount of the corporation's check payments that have been presented that day.

[5] Under the 1990 version of Article 4, the bank receiving settlement may demand cash or credit to an account in a Reserve Bank. This requirement may effectively preclude some barriers to same-day settlement.

[6] Regulation J (12 CFR part 210) currently requires that a paying bank make settlement proceeds available for a check presented by a Reserve Bank by the close of the Reserve Bank's banking day on the day of presentment (12 CFR 210.9(a)(2)). (But see Docket R-0722, amending Regulation J effective October 14, 1992, elsewhere in today's Federal Register.) The Federal Reserve Act prohibits Reserve Banks from paying presentment fees (12 U.S.C. 342).

[7] The table below summarizes the responses by category of respondent.

Category of Respondent	No. of Responses
Commercial banks and BHCs	95
Savings institutions	27
Credit unions	92
Trade associations	24
Clearinghouses	8
Corp.	14
Service bureaus	15
FRBs, FHLBss, Government, Misc.	16
	291

not reimburse the paying bank for corresponding settlement adjustments.

The Board has analyzed the direct net social benefit of the final rule on payments system participants. The Board estimates the quantifiable short-term direct net social cost of same-day settlement to be approximately $13 million per year and the quantifiable longer-term direct net social cost to be less than $3 million per year. Since the total real resource cost of the payments system is estimated to be over $50 billion annually, including approximately $40 billion annually for the cost of the check payments system,[8] the Board believes that the quantifiable direct net social cost of the same-day settlement rule is insignificant compared to the total resource cost of the check system.

The Board believes, however, that the final rule will have substantial unquantifiable benefits for the check collection system. The final rule will provide for a more balanced bargaining power between presenting banks and paying banks, by eliminating barriers to presentment that some paying banks currently impose. The Board believes that the rule, by shifting the bargaining power between the presenting bank and the paying bank, achieves the Board's objective of improving the payments system in a more effective and less burdensome manner than would a rule that contained detailed operational requirements and proscriptions. Further, the more balanced bargaining positions will affect market forces to improve the payments system by:

- Enhancing competition between private-sector banks and Reserve Banks in the provision of check collection services;
- Encouraging agreements between presenting banks and paying banks that will reduce the cost of the check system;
- Reducing inefficient intermediation in the check collection process; and
- Encouraging the migration from checks to more efficient payments mechanisms.

The Board believes that the benefits derived from these effects will outweigh any increased direct social costs due to the adoption of the final rule.

The Board believes that the rule will enhance competition in the provision of check collection services, by making the presentment abilities of private-sector banks correspond more closely to those of the Reserve Banks. The more competitive environment resulting from the rule will promote further efficiencies in the check collection system. Specifically, the removal of certain presentment barriers that currently put private-sector collecting banks at a competitive disadvantage vis-a-vis Reserve Banks will heighten the competitive pressure on Reserve Banks, which is likely to spur further Reserve Bank efficiencies. This, in turn, may prompt efficiency improvements on the part of the private-sector bank competitors as well.

The more balanced bargaining power between presenting banks and paying banks also will facilitate agreements between those banks to vary the terms of the rule, which will improve the efficiency of the check collection system. For example, same-day settlement increases the incentives for banks to establish or expand mutually beneficial clearinghouse arrangements, which enable participants in such arrangements to minimize transportation and settlement costs associated with check collection.[9] The majority of the commenters on the impact of same-day settlement on clearinghouse arrangements believed that clearinghouse membership would increase in a same-day settlement environment because of the perceived advantages of using a clearinghouse exchange versus obtaining same-day settlement outside a clearinghouse arrangement.

In addition, the rule may encourage paying banks to agree with presenting banks to accept later delivery of checks, if the presenting banks transmit to the paying banks early in the day check MICR line data that enable the paying banks to provide morning balance information to their controlled disbursement customers. These agreements may reduce presenting bank transportation expenses by reducing the need for time-sensitive transportation of physical checks to the paying bank as well as minimize the paying bank's cost to obtain electronic check information.

As stated earlier, the Board believes that the same-day settlement rule will reduce the disparities in presentment abilities between Reserve Banks and private-sector banks and among private-sector banks. This greater equivalence in presentment abilities across all collecting banks will promote an environment in which banks choose to use intermediary banks primarily based on the economies of scale in processing, transportation, and/or settlement that the intermediaries could provide, rather than on the more advantageous presentment abilities of some intermediaries. The majority of the comments on the anticipated effects of the proposed rule on the level of the intermediation in the check collection system stated that the proposed rule would result in less intermediation.

The rule also may encourage a migration from checks to more efficient payments mechanisms, to the extent that it shifts a greater proportion of check costs from collecting banks and their customers to paying banks and the drawers of the checks. Commenters generally believed that the proposed rule would increase paying banks' costs and decrease their presentment fee revenue. They anticipated that paying banks would pass on their higher costs to their customers in the form of higher service fees. Payors generally are in the best position to influence which payments mechanism is used. Although the real resource cost of checks ($0.79) is higher than that for automated clearing house (ACH) payments ($0.29), payors often choose to make payments by check because the float makes checks an attractive option.[10]

Although the cost increase to paying banks resulting from the same-day settlement rule would be smaller than the average value of float, it could be sufficient to cause some payors to shift some check payments to more efficient electronic payment mechanisms. The net social benefit of same-day settlement resulting from a shift in check payments to other payment instruments is potentially quite large. If 0.25 percent of the 57 billion checks written annually become ACH payments as a result of the effects of the same-day settlement rule, the resource savings would be $71 million per year.

In addition to the benefits cited above, the rule will also have the effect of speeding collection of some checks. The expedited collection, and associated prompter availability, for these checks would be a result of the agreements between presenting and paying banks,

[8] Berger, Allen N. and David B. Humphrey, "Market Failure and Resource Use: Economic Incentives to Use Different Payment Instruments," in The U.S. Payment System: Efficiency, Risk and the Role of the Federal Reserve, ed., David B. Humphrey. Boston, Kluwer Academic Publishers, 1990. The $40 billion per year resource cost estimate for the check payments system includes production, disbursement, and bank processing cost.

[9] To the extent that checks currently collected through an intermediary bank are presented directly through a clearinghouse arrangement, the direct net social cost of the rule would decrease. Assuming that local checks represent 75 percent of intermediary bank volume decline, and that 50 percent of these checks are presented through clearinghouse exchanges, transportation cost would fall by $2.3 million annually from the $6.3 million estimated in the analysis later in this docket. Assuming the clearinghouses settle through net settlement arrangements, the settlement costs estimated in the analysis would decline by $1.3 million annually.

[10] Berger and Humphrey, *supra* note 7.

productivity improvements, reduction in inefficient intermediation, and migration to electronic payments that are described above.

Several commenters urged the Board to expand the final rule to provide for a later-in-the-day presentment deadline subject to an early morning transmission of check payment data. They indicated that this arrangement would enhance further the competitive position of private-sector banks as well as the migration of checks to electronic payments. The Board recognizes that later presentment deadlines coupled with early-in-the-day electronic transmission of check payment data would likely result in a larger number of checks presented for same-day settlement. However, because the same-day settlement rule may induce agreements between paying banks and presenting banks that would allow for later presentment under certain conditions, the Board believes that it is preferable that market forces determine the development of private-sector response with respect to early electronic delivery. The Board will review the developments in the marketplace after this rule takes effect to determine whether further action may be necessary to encourage greater utilization of same-day settlement.

In conjunction with the Board's proposal to modify Regulation CC to provide for same-day settlement, the Board proposed new and enhanced services that the Reserve Banks could offer in light of the proposed same-day settlement rule (56 FR 10429, March 12, 1991). Specifically, the Board requested comment on (1) presentment point service; (2) payor bank services for checks not collected through the Reserve Banks; and (3) enhancements to the Fedwire format to facilitate settlement. In addition, the Board requested comment on whether the Reserve Banks should offer a new bilateral settlement service. The proposed services were designed to minimize operational burden on paying banks resulting from the rule, to enable paying banks to continue to provide timely cash management information to their corporate customers, and to facilitate settlement of checks presented by private-sector banks.

The Board received 60 comments on the proposed Reserve Bank services. Board staff has analyzed the issues raised by the commenters, and the Board anticipates taking final action on the proposed services in the next few months, following Reserve Bank review of the final same-day settlement rule and recommendations regarding final disposition of the proposed services.

Section-by-Section Analysis

Presentment Location

The Board proposed that a check would qualify for same-day settlement if it is presented at a location of the paying bank designated by the paying bank. The proposal required that the designated presentment location be in the check processing region consistent with the routing number in the MICR line of the check. If the paying bank did not designate a presentment location, the proposal required the paying bank to accept presentment for same-day settlement at any location identified in § 229.36(b) of Regulation CC. The proposal did not apply to checks presented for immediate payment over the counter.

The Board received 187 comments on the proposed presentment location, with 95 percent (177 commenters) opposing the proposed location requirements. Three commenters concurred with the proposed location requirements. An additional seven commenters raised issues with respect to this aspect of the proposal but did not explicitly support or oppose the proposed requirements.

Seventy-six commenters opposed the proposal because it would not allow the designation of an intercept processor as the presentment location. The majority of these commenters, mostly credit unions and savings institutions, were concerned that the proposal would increase transportation and operational costs, by requiring paying banks to transport checks presented by private-sector banks from the banks' designated location to their intercept processor. These commenters stated that they were not operationally capable of accepting direct presentment, noting that small institutions would not have the staff, equipment, or space to handle direct presentment. Twenty-five commenters expressed concern that their operating expenses would increase as a result of the proposal.

Commenters that use intercept processors or operations centers for check processing noted that they choose to do so because these processors provide economies of scale with respect to check processing. They commented that the intercept processors process their checks timely, control quality, and maintain sound adjustment procedures. These commenters noted that operations centers are designed specifically to speed the collection of checks and that direct presentment to a location of the paying bank rather than to the intercept processor would delay check collection and diminish or reduce controls.

The credit union commenters stated that intercept processing is essential to their share draft truncation programs. The commenters noted that they would have to pass on any costs associated with direct presentment to their customers. Nine commenters expressed concern that adoption of this proposal could force discontinuation of their share draft programs because of the potential increase in operational costs. They indicated that credit unions provide lifeline banking to a number of consumers and expressed concern that discontinuation of their programs would cause these customers to lose access to checking services.

Six credit unions commented that the proposal penalizes credit unions that use their own routing number and a local intercept processor rather than a payable-through bank. They stated that these credit unions should have the same rights as credit unions that use a payable-through processor. These commenters noted that this proposal would reduce the likelihood that they would use local intercept processors instead of payable-through banks, thereby reversing a current industry trend. One commenter expressed concern that the proposal would provide an opportunity for banks to harass credit unions that use intercept processors by presenting directly to the credit union. One bank commented that the proposal would discriminate against banks that use processing centers, and this would have adverse competitive consequences. Seventeen commenters suggested that the location definition should be broadened to include the location where the paying bank accepts presentment from the Federal Reserve.

The Board has modified the proposal to address the commenters' concerns regarding direct presentment to banks that utilize a processing center or intercept processor. Under the final rule, the designated presentment location need not be a location of the paying bank. The presentment location must be a location at which the paying bank would be considered to have received a check under § 229.36(b), i.e., at a location to which delivery is requested by the paying bank; at an address of the bank associated with the routing number on the check; at any branch or head office if the bank is identified on the check by name without address; or at a branch, head office, or other location consistent with the name and address of the bank on the check if the bank is identified on the check by name and address. The designated

presentment location must be within the check processing region consistent with the routing number printed in the MICR line of the check. This modification allows paying banks to designate as intercept processor or operations center as a presentment location as long as it is in the check processing region consistent with the routing number encoded on the check.

Two commenters stated that the proposal to require presentment for same-day settlement in the check processing region consistent with the routing number on the check is contrary to UCC § 4–204(c), which provides that a presenting bank may present checks at a location designated by the paying bank. UCC § 4–204(b)(1) provides that a presenting bank may send checks directly to the paying bank. UCC § 4–204(c) allows variation of UCC § 4–204(b)(1) by agreement between the paying and presenting banks. The same-day settlement rule allows for variation by agreement. The Board has clarified in the Commentary to the final rule that a presenting bank may not send a check for same-day settlement directly to the paying bank, if the paying bank designates a different location in accordance with § 229.36(f)(1) of Regulation CC (12 CFR 224.36(f)(1)). The Commentary also clarifies that the presentment location designated for the purpose of the same-day settlement requirements of Regulation CC also will constitute the presentment location for purposes § 229.36(b), which would include a place designated by the paying bank under U.C.C. § 4–204.

Twenty-six commenters favored eliminating the requirement that the presentment location be within the check processing region consistent with the routing number in the MICR line of the check. Thirty-three commenters suggested that the presentment location should be based on ease of access and the ability of the paying bank to prove the location was not established for remote disbursement or avoiding direct presentment. These commenters stated that the current routing number policy is outdated.

The final rule retains the proposed requirement that the presentment location be consistent with the routing number in the MICR line of the check. The Regulation CC availability schedules reflect the time needed for the collection and return of local and nonlocal checks and are linked to the Federal Reserve's check processing regions. Allowing paying banks to designate presentment locations outside the check processing region consistent with the routing number on the check could increase the time necessary to collect and return the check and thus could cause increased risk for the depositary bank, which must make funds available according to the Regulation CC schedules.

The Commentary to the final rule also indicates that a paying bank and a presenting bank may agree that checks will be accepted for same-day settlement at an alternative location. Therefore, the paying bank may designate an additional presentment location in a different check processing region, to which a presenting bank can present checks if it so agrees.

Currently, some banks with processing centers in check processing regions not consistent with the routing number encoded on their checks pick up presentments at the Reserve Bank office in the region consistent with the routing number encoded on their checks. As discussed earlier, the Board requested comment on a proposed Reserve Bank presentment point service. If adopted, paying banks could designate their Reserve Bank as their presentment location. The Board anticipates that private-sector entities will offer similar presentment point services if there is market demand for these services. Such services should address the concerns of banks operating in multiple regions and banks that use an intercept processor in an adjacent region. Checks presented at a designated presentment location before the paying bank's cut-off hour would be deemed presented under other applicable law. Therefore, a paying bank may need to arrange for more than one pick-up of checks presented at a Reserve Bank or other presentment location where the checks are not processed to the extent checks are received after pick-up of the checks presented by 8 a.m. but before the paying bank's cut-off hour.

Eight commenters suggested that the Federal Reserve take responsibility for maintaining a centralized list of paying bank presentment locations. Two of these commenters suggested that the Federal Reserve should provide the information to third party that would publish this information in a banking publication. The remaining six commenters recommended that the Reserve Banks should maintain a centralized list of paying bank presentment locations. Presenting banks can obtain information on paying bank presentment locations by contacting the paying banks. Accordingly, the Board does not believe it is necessary for the Federal Reserve to maintain a list of presentment locations.

The Board has adopted a final rule under which the paying bank may designate a presentment location that is not a location of the paying bank. However, the designated location must be within the check processing region consistent with the routing number printed in the MICR line of the check. The location would be a location at which the paying bank would be considered to have received a check under § 229.36(b). The Board has also adopted Commentary revisions to clarify the final rule.

Sorting Requirements

The Board's proposal stated that a paying bank that uses more than one routing number associated with a single check processing region may designate one or more locations in that check processing region at which checks will be accepted for same-day settlement, but the paying bank must accept any checks with a routing number associated with that check processing region at each designated presentment location. One commenter stated that the rule should allow checks drawn on multiple routing numbers of the same bank associated with a single check processing region to be commingled in a single cash letter and presented for same-day settlement. Another commenter stated that the rule should not require paying banks to accept commingled cash letters and that paying and presenting banks should agree before commingling could occur. An additional commenter, a major processor of travelers checks, stated that the final rule should not require paying banks to accept commingled cash letters that include travelers checks, official checks, and money order. This commenter noted that requiring the paying bank to sort travelers checks from other checks drawn on the bank would be extremely costly and would severely limit its ability to provide an efficient service. This commenter also stated that requiring paying banks to accept commingled cash letters would adversely affect the number of banks that would have the economic incentive and capacity to provide payments services for travelers checks, official checks, and money orders.

The final rule retains the requirement that a paying bank that uses more than one routing number associated with a single check processing region must accept any checks with a routing number associated with that check processing region at each designated presentment location in that check processing region. Therefore, the paying

bank must accept commingled cash letters containing these checks. The Commentary clarifies that a paying bank may designate a presentment location for travelers checks with an 8000-series routing number anywhere in the country because these travelers checks are not associated with any check processing region. The paying bank, however, must accept at this presentment location any other checks for which it is paying bank that have a routing number consistent with the check processing region of this location.

Presentment Deadline

The Board proposed an 8 a.m. presentment deadline (local time at the designated place of presentment) for checks presented by private-sector banks for same-day settlement. The Board received 112 comments on the proposed presentment deadline. Thirty-one commenters concurred with the proposed deadline or noted that the 8 a.m. deadline was preferable to a 2 p.m. deadline, as proposed in the 1988 request for comment. Thirty-three commenters, mostly credit unions, stated that the 8 a.m. deadline would be an undue hardship and that a 6 a.m. deadline would be more manageable operationally. Most of these commenters were concerned that presentment would be made directly to the credit union, which would then have to transport the checks to its processor. As discussed above, the Board has modified the proposal to allow a paying bank to designate an intercept processor as its presentment location, which should prevent the operational burdens associated with accepting presentment at a location where checks are not processed.

Twenty-seven commenters stated that the proposed presentment deadline would result in a degradation in quality and timeliness of controlled disbursement services. Several commenters stated that these services would be adversely affected if checks currently received very early in the morning were delivered closer to 8 a.m. due to a shift from collection through the Federal Reserve to direct presentment. Commenters noted that a delay in providing account balance information may have an adverse effect on the investment or funding decisions of corporate customers, and, as a consequence, may require corporate customers to maintain additional balances and back-up sources of liquidity to fund investments. The Board believes that paying banks that provide controlled disbursement services either may be able to induce presenting banks to present checks earlier than 8 a.m. or to transmit MICR line data early in the day. Even if agreements could not be obtained with all presenting banks, paying banks may be able to smooth their processing workload sufficiently so as to provide corporate account balance information at the same time as they do today. The Board does not believe that a shift from the use of Federal Reserve collection services to direct presentment would cause significant check volume to be presented later, because in many cases, the Federal Reserve currently presents close to or after 8 a.m.

Twenty-nine commenters expressed concern that the proposed presentment deadline would require banks to develop the capability to accept presentments prior to 8 a.m. The commenters stated that many banks are not open before 8 a.m., and accepting presentment in the early morning would require additional investment in staff and facilities. Many of the commenters suggested that the Board establish a time period "window" for presentment of checks for same-day settlement. Three commenters requested clarification of the status of checks presented after the deadline, and one commenter asked for clarification of the interaction of the proposed rule and the UCC.

The Board has amended the proposal to address these commenters' concerns. Under the final rule, banks may present checks for same-day settlement 24 hours a day. The paying bank, however, may establish reasonable delivery requirements, such as providing access to a night depository during the hours the paying bank is closed. (The final rule encourages presenting banks to notify paying banks before presenting directly because the presenting bank must ascertain the paying bank's delivery requirements.) Checks presented after 8 a.m. and before the bank's cut-off-time (often 2 p.m.) would be subject to the provisions of the UCC, although the presenting bank could request that those checks be considered presented on the next business day for settlement purposes. Checks presented for same-day settlement after the bank's cut-off hour would be considered presented on the next business day.

Fifteen commenters stated that the deadline of 8 a.m. local time would give banks in the Eastern Time (ET) zone a competitive advantage over banks in western time zones in offering controlled disbursement services. These commenters suggested alternatives such as a tiered deadline that would allow presentment by local and nonlocal banks until 8 a.m. and 8:30 a.m. local time of the paying bank, respectively, or an 8 a.m. ET deadline. The Board believes that these suggestions are problematic. A tiered deadline structure could give an advantage to nonlocal presenting banks, depending on their proximity to local presenting banks and on available transportation. For west coast banks, an 8 a.m. ET (5 a.m. local) deadline would result in a shorter processing window in which to process and present checks because deposit deadlines and processing schedules are based on local time. The 8 a.m. deadline could possibly result in a slowing of the collection of some checks due to the need for earlier deposit deadlines. Even under an 8 a.m. ET deadline for private-sector presentment, banks in western time zones would continue to receive checks from Reserve Banks after 8 a.m. ET and would still be at a disadvantage vis-a-vis eastern banks in offering controlled disbursement services.

Three commenters suggested that the Federal Reserve presentment deadline be moved to conform with the private-sector deadline. Several commenters noted the continuing competitive advantage of the Reserve Banks because of their ability to present checks to paying banks until 2 p.m., six hours later than the private-sector bank presentment deadline under the same-day settlement rule.

The Board's 1988 proposal, which would have conformed the private-sector presentment deadline with the Federal Reserve's 2 p.m. deadline, was widely opposed. The overwhelming majority of commenters to the 1988 request for comment were concerned about the effects of a 2 p.m. presentment deadline on the provision of cash management services and on paying bank operations. The Board proposed an 8 a.m. presentment deadline in response to the commenters' concerns regarding the potentially disruptive effects of a 2 p.m. presentment deadline. The Board believes that an 8 a.m. presentment deadline that would be applicable to both Reserve Banks and private-sector presenting banks would slow the collection of checks handled by the Federal Reserve, and thus would be contrary to the objective of the Expedited Funds Availability Act to speed the check collection process.

One commenter suggested that the Federal Reserve could mitigate the inequity in presentment ability by adjusting the private sector adjustment factor to reflect the costs the Federal Reserve would incur if it presented all checks by 8 a.m. The Board believes that artificially increasing Federal Reserve costs would not remedy the difference in presentment abilities in a way that

would also meet the objectives of the Expedited Funds Availability Act. By increasing the Federal Reserve's fees, the check volume diverted to private-sector intermediaries would effectively slow the presentment of checks.

Another commenter suggested that the private-sector presentment deadline be tied to the time that the Federal Reserve presents checks to the paying bank. The Board does not believe that the presentment rights of private-sector banks should be tied to the delivery schedules of the Reserve Banks, which are subject to change. Implementation of this suggestion would require a unique presentment time for each bank, thereby complicating private-sector presentment. Further, changes in Federal Reserve delivery schedules could have an adverse effect on the presentment rights of private-sector presenting banks and on their transportation arrangements.

A major provider of check-related services commented that the 8 a.m. deadline could cause increased staff and equipment costs and Fedwire congestion in the early morning hours, particularly if the Board conforms the same-day settlement rule to the new amendment to Regulation J (see Docket R–0722, elsewhere in today's Federal Register and also see "Time of Settlement" discussion), which requires earlier-in-the-day settlement for checks presented by Reserve Banks. The Board recognizes that some paying banks and service providers may face increased costs under the same-day settlement rule, as explained in the discussion of direct net social benefits later in this docket. The same-day settlement rule does not require settlement until the close of Fedwire and thus should not contribute significantly to early morning Fedwire traffic.

The Board has adopted the proposed deadline of 8 a.m. (local time at the designated place of presentment) for checks presented by private-sector banks for same-day settlement, but the paying bank may establish reasonable delivery requirements, such as providing access to a night depository during the hours the bank is closed. The Board also has adopted revisions to the Commentary to clarify the final rule.

Advance Notice

The Board's proposal did not require a presenting bank to give advance notice to the paying bank before presenting checks for same-day settlement. The Board stated in the proposal that it believes that, in practice, presenting banks would contact paying banks to determine the paying bank's presentment location for same-day settlement, and this contact would serve to notify paying banks of future check presentments.

The Board received 86 comments regarding advance notice. All 86 commenters stated that the presenting bank should be required to give some form of advance notice to the paying bank prior to presenting checks for same-day settlement. Twenty-eight commenters suggested time frames for advance notice ranging from six hours to thirty days. One commenter suggested that the industry should establish the time frame. Ten commenters suggested information that should be provided in the advance notice, including estimated presentment time, average daily volume and dollar amount of checks to be presented, the method of settlement, procedures for handling adjustments and late presentments, and a list of contact people and telephone numbers.

Eight commenters stated that advance notice is necessary in order to give the paying bank time to prepare operationally for handling additional presentments. These commenters noted that the paying bank needs to control the processing workflow and, therefore, needs advance notice to make operational adjustments and schedule proper staffing levels. They expressed concern that lack of advance notice could cause scheduling problems and additional staff expense. One commenter noted that the paying bank needs advance notice in order to add the presenting bank to its recurring wires database and to make other operational changes.

Eleven commenters stated that the advance notice should result in a written agreement between the presenting bank and paying bank prior to presentment for same-day settlement. They suggested that the agreement cover all procedures related to same-day settlement. Three commenters recommended that the paying bank be exempted from same-day settlement requirements if the presenting bank fails to give advance notice. One commenter stated that the paying bank should be allowed to refuse presentments without prior advance notice.

As explained above in the "Presentment Deadline" discussion, the final rule states that a bank may present checks for same-day settlement "in accordance with reasonable delivery requirements established by the paying bank." The Commentary to the final rule indicates that the paying bank may establish reasonable delivery requirements to safeguard the checks presented and that if a presenting bank fails to follow reasonable delivery requirements, it runs the risk that it will not have presented the checks. The Board believes that a presenting bank generally will find it necessary to contact the paying bank to determine the appropriate presentment location and delivery instructions. In addition, presentments would be subject to the regulation's good faith standard. The Board believes that the practical effects of allowing the paying bank to establish reasonable delivery requirements and requiring presenting banks to present checks in a manner consistent with reasonable commercial standards of fair dealing will be that presenting banks generally will contact paying banks to determine the delivery requirements and/or for other purposes, and this contact will serve to notify paying banks of future check presentments. The Board also believes that it is in the presenting bank's interest to provide advance notice so that it can furnish necessary information for settlement and thereby facilitate timely settlement by the paying bank.

Thirteen commenters expressed concern that the regulation's reliance on a good faith standard is insufficient due to the level of abuse that could occur before legal costs would justify action by the paying bank. They stressed that the good faith standard is not explicit enough to resolve all potential conflicts resulting from lack of advance notice. The Board believes that the requirement that banks presenting checks for same-day settlement do so in accordance with reasonable delivery requirements established by the paying bank, in addition to the general good faith standard, addresses these concerns. Even if the regulation included more specific requirements, the Board notes that an aggrieved party that was unable to resolve its dispute with the other party would nonetheless have to seek remedy through the courts, because subpart C of the regulation is not subject to administrative enforcement.

Two commenters stated that advance notice should be required for private-sector presentment since Reserve Banks require advance notice prior to presentment. Under the rule, a Federal Reserve Bank cannot require advance notice as a condition to providing same-day settlement for checks presented by 8 a.m. and payable by that Federal Reserve Bank. An additional commenter noted that Reserve Banks would require advance notice prior to presentment under the proposed presentment point service. Under this proposed service, the Reserve Bank would require the paying bank, rather than the presenting bank, to provide advance notice so that the Reserve Bank would be aware of which

paying banks planned to use this service.

Two commenters stated that advance notice should be required for presentments of large volumes of checks. The Board believes that the regulation's good faith standard in conjunction with reasonable delivery requirements address this concern. The Commentary indicates that presenting a large volume of checks without prior notice could be viewed as not meeting reasonable commercial standards of fair dealing and therefore may not constitute presentment in good faith.

Two commenters suggested that the Federal Reserve should offer a notification service. The Board believes there would not be any benefit gained by having the Reserve Banks act as a conduit of information between the presenting bank and the paying bank rather than the presenting bank providing advance notice directly to the paying bank.

For the reasons explained above, the Board has not adopted an advance notice requirement for same-day settlement. The Board continues to believe that, in practice, presenting banks should contact paying banks before presenting for same-day settlement to determine the appropriate presentment location and delivery requirements.

Form of Settlement

The proposed rule required settlement to be in the form of a credit to an account at a Reserve Bank designated by the presenting bank (e.g., a Fedwire transfer) or in some other form to which the presenting bank agrees. The Board received 18 comments specifically addressing this aspect of the proposal. One commenter supported the proposed form of settlement as an improvement over settlement by remittance draft, which results in a float cost to the presenting bank and prevents the presenting bank from investing the settlement proceeds on the day of presentment.

Two commenters stated that settlement could be handled most efficiently through a Reserve Bank settlement service, because banks maintain, or have a correspondent bank that maintains, an account at a Reserve Bank, and same-day settlement could be incorporated into their daily business with the Federal Reserve. As stated earlier, the Board requested comment on the feasibility of a bilateral settlement service and will take final action on Reserve Bank services to facilitate a same-day settlement environment in the near future.

Other commenters raised concerns regarding the operational aspects of the proposal. Six commenters stated that paying banks would likely delay settlement as long as possible, creating Fedwire gridlock during the late afternoon. Based on the expected number of same-day settlement presentments, as estimated in the discussion of direct net social benefit, the Board does not believe that a payments gridlock will develop on Fedwire due to check settlement payments, but the Federal Reserve will continue to monitor the time-of-day distribution of Fedwire transfers. One commenter asked if Fedwire would remain open long enough for all settlements to be made. Absent unusual circumstances, the Federal Reserve does not plan to extend Fedwire hours solely to allow paying banks to complete their funds transfers for same-day settlement. Paying banks should plan to make their settlement payments within the scheduled Fedwire operating hours. Two commenters suggested that the paying bank should be able to reverse all or part of a settlement on the same business day the settlement was made. However, allowing revocation of Fedwire funds transfers would be contrary to Regulation J and would change the nature of Fedwire transfers, which are final when made. The Board believes that permitting revocable Fedwire transfers would undermine the finality of Fedwire funds transfers, thereby introducing uncertainty and delays into these transactions.

Other commenters expressed concerns about the cost of settlement by Fedwire. Three commenters noted that the proposal would result in increased bank costs in the funds transfer operations and adjustments areas. Three commenters suggested that the charge for the Fedwire same-day settlement transfer should be assessed to the presenting bank, possibly by allowing the paying bank to deduct the cost of sending the funds transfer from the settlement total. The commenters noted that the presenting bank could avoid the funds transfer charge by establishing an account with the paying bank and accepting settlement by a credit to that account. The Board believes that the reconcilement complexities for the presenting bank associated with permitting the paying bank to deduct from Fedwire settlement transfers its cost of sending the transfers outweigh the benefits that would accrue to the paying bank from shifting these costs to the presenting bank. Moreover, if the ability of a paying bank to deduct its settlement cost encourages presenting banks to accept settlement by credit to accounts at the paying bank, it may reintroduce certain presentment barriers that the same-day settlement rule is intended to eliminate. The Board believes that the cost of maintaining and crediting an account of the presenting bank at the paying bank, and the subsequent transfer of those funds to the presenting bank, generally would exceed the cost of settling by Fedwire transfer.

The Board has adopted its proposed requirement that settlement under the same-day settlement rule must be in the form of a credit to an account at a Reserve Bank designated by the presenting bank (e.g., a Fedwire transfer) or in some other form to which the presenting bank agrees.

Time of Settlement

The Board proposed to require the paying bank to settle for checks that meet the same-day settlement requirements by the close of Fedwire on the business day it receives the checks. In its proposal, the Board noted that Regulation J required that a paying bank make settlement proceeds available for a check presented by a Reserve Bank by the close of the Reserve Bank's banking day on the day of presentment (12 CFR 210.99(a)(2)). The Board also noted that, as part of its daylight overdraft measurement proposal, it had proposed an amendment to Regulation J to allow the Reserve Banks to debit paying banks' accounts by the end of the clock hour after the hour during which presentment had taken place,[11] or one hour after the scheduled opening of Fedwire, whichever was later (or by such later time as provided in the Reserve Bank's operating circular). The Board requested comment on whether the settlement time for checks presented by private-sector banks under the same-day settlement rule should conform to the settlement time for checks presented by Reserve Banks under any future Regulation J amendment. (The Board has recently adopted this amendment to Regulation J—see Docket R-0722, elsewhere in today's Federal Register.) The Board also requested comment on whether paying banks would be operationally equipped to make same-day settlement with private-sector presenting banks by the later of one hour after presentment or one hour after the opening of Fedwire.

[11] For example, checks presented at 12:30 p.m. ET would have to be settled for by 2 p.m. ET. Generally, paying banks authorize Reserve Banks, through an autocharge agreement, to debit their reserve or clearing account or the account of their correspondent settlement agent for the amount of checks presented.

The Board received 85 comments regarding the proposed time of settlement. Twenty-five commenters favored making the private-sector same-day settlement time consistent with the Reserve Banks' settlement time under Regulation J, even if Regulation J is amended to provide a settlement time as early as one hour after presentment. Eight commenters stated that the settlement times under Regulations J and CC should be consistent, but that one hour after presentment is not reasonable. These commenters favored consistency to prevent Reserve Banks from having an unfair competitive advantage and to prevent settlement delays by paying banks for the purpose of improving their daylight overdraft positions. Four commenters stated that a requirement to settle one hour after presentment should not pose operational problems, as it is not necessary to process checks before settling for them. Commenters suggested various alternative settlement times, ranging from 11 a.m. to 5 p.m.; two commenters suggested the Board form an advisory group on settlement issues under Regulations J and CC.

Four commenters were concerned that the modifications to Regulation J would allow the Reserve Banks to provide better intraday availability to depositors than the availability provided by correspondent banks. One commenter was concerned that the cumulative effect of the same-day settlement proposal, along with the modifications to Regulation J and the daylight overdraft monitoring program, would negatively impact its competitive position in relation to the Reserve Banks. Two commenters asserted that the ability of the Reserve Banks to obtain settlement one hour after presentment would be a competitive advantage and that banks may choose to clear through Federal Reserve in order to get earlier credit, especially if the bank was close to its overdraft limit.

Forty-four commenters opposed moving the proposed private-sector same-day settlement time from the close of Fedwire to earlier in the day to conform to Regulation J. These commenters generally stated that the burdens of earlier settlement times for private-sector presentment outweigh any competitive advantage the Reserve Banks may acquire under Regulation J. Thirteen commenters specifically favored retaining the proposed close-of-Fedwire settlement time.

Thirty-six of these commenters were specifically opposed to a one-hour-after-presentment settlement deadline, indicating that it was too short a time frame. The commenters gave various reasons for opposition, such as (1) increased daylight overdrafts by paying banks, (2) the need to require earlier funding of controlled disbursement accounts at considerable cost to corporate customers, (3) increased risk for paying banks, who would be unable to detect fraudulent items in one hour and thus would be unable to exercise their right to return without settling, (4) the need for a longer turn-around time for paying banks making many separate settlement payments and consequent potential for Fedwire gridlock, and (5) a general increase in operating costs.

The Board believes that, at the present time, the settlement time for checks presented by private-sector banks under § 229.36(f) of Regulation CC should not conform to the settlement time for checks presented by Reserve Banks under Regulation J, as recently revised. The Board has reached this conclusion after considering the reasoning put forth by the commenters as well as the fact that conforming the two times would (1) create the additional burden for the paying bank of initiating an early-in-the-day Fedwire transfer for private-sector presentments (as opposed to settlement payments to Reserve Banks, which are made by debits to reserve or clearing accounts and require no affirmative action by the paying bank); (2) result in an increased potential for mistakes, even if the deadline were met; and (3) increase the risk faced by paying banks that may want to examine selected cash letters presented by certain banks.

Thus, the Board has adopted its proposal to require the paying bank to settle for checks that meet the same-day settlement requirements by the close of Fedwire on the business day it receives the checks. The Board has decided, in a recent action, to price intraday overdrafts (see Docket R–0668, elsewhere in today's **Federal Register**). If intraday funds start to have significant value, the Board will revisit the issue of settlement deadlines for checks presented by private-sector banks under the same-day settlement rule.

Return Deadline

Under the Board's proposal, if a bank presented a check in accordance with the time and location requirements for same-day settlement, the paying bank would have to settle for the check on the business day of receipt or return the check prior to the close of Fedwire on that day. This return deadline, however, would be subject to the extension provisions of § 229.30(c) of Regulation CC. The Board proposed regulatory amendments and Commentary revisions to § 229.30(c) to make explicit the paying bank's ability to use the deadline extension provisions when returning a check in lieu of settling for it, as well as when returning a check after having already settled for it.

The Board received fourteen comments regarding the mechanics of the return process under same-day settlement. One commenter supported the proposed return deadline extension amendments in general.

Seven commenters requests that the Board clarify how a paying bank would return a check under the same-day settlement rule, either with or without settlement. The paying bank may return checks presented for same-day settlement in the same manner that it would return any other check in accordance with § 229.30. The paying bank need not return the check directly to the presenting bank. If a paying bank returns a check on the day of presentment without settling for the check and receives settlement for the returned check from a returning bank, it must promptly pay the amount of the returned check to the presenting bank. (See Commentary to § 229.30(a).)

Six commenters requested an expanded explanation of the effect of settling or not settling on the paying bank's right to return a check. The regulation provides that a paying bank must settle for or return a check meeting the same-day settlement requirements by the close of Fedwire on the day of presentment. If the paying bank does neither, it becomes accountable for the check and cannot return it on the subsequent business day. The Board has revised the Commentary to clarify how the requirement affects the deferred posting and accountability provisions of UCC §§ 4–301(a) and 4–302(a).

The Board has adopted, with minor technical changes, the proposed amendments and Commentary revisions to § 229.30(c), which make explicit the paying bank's ability to use the deadline extension provisions when returning a check in lieu of settling for it, as well as when returning a check after having already settled for it.

Good Faith Standard

The Board proposed that presenting banks and paying banks be held to a standard of good faith, defined as "honesty in fact and the observance of reasonable commercial standards of fair dealing." The proposed definition is consistent with the good faith definition in UCC § 3–103(a)(4) (1990 version). The Board gave examples of behavior that may not constitute good faith, such as designating a presentment location for

the primary purpose of discouraging banks from presenting checks for same-day settlement and presenting a large volume of checks without prior notice.

The Board received 67 comments on the proposed good faith language. Two commenters supported the proposal without specific comment. Forty-one commenters stated that a good faith standard would not work well unless the rule also provided for advance notice of presentment and standards for adjustments and quality controls. Eleven commenters stated that good faith is not a useful standard because it does not provide enough protection to paying banks or act as an effective disincentive to misbehavior by presenting banks, is insufficient to resolve most disputes, will cause controversy and litigation over the meaning of the provision, and will deter timely settlement when disputes arise. One commenter requested that the Federal Reserve exercise enforcement authority and establish penalties for good faith violations.

As discussed above, some of the concerns raised by the commenters are addressed by the amended provisions of § 229.36(f)(1) that allow the paying bank to establish reasonable delivery requirements. This provision will provide a strong incentive for the presenting bank to contact the paying bank before presenting checks for same-day settlement, thereby providing advance notice and also providing an opportunity for the paying and presenting banks to work out the operational details of presentment and settlement. The Board acknowledges that disputes will arise as to what behavior constitutes good faith but believes that resolution of those disputes is best left to the private sector or the courts on a case-by-case basis.

Twelve commenters requested that the Board further clarify the meaning of good faith, such as by providing more examples. The Board has revised the Commentary to provide an additional example of what might constitute bad faith. If banks, in the general course of business, regularly agree to certain practices related to same-day settlement, it might not be considered consistent with reasonable commercial standards of fair dealing, and therefore might not be considered good faith for a bank to refuse to agree to those practices if agreeing would not cause it harm. The Board does not believe numerous examples are appropriate, because the determination of whether an action is taken in good faith is dependent on the circumstances.

One commenter asked whether the good faith standard would require paying banks to open early enough to receive presentment at 8 a.m. Under the final rule, the paying bank may establish reasonable delivery requirements, such as providing night depository access to presenting banks, which would obviate the need to open before 8 a.m. to accept presentment.

The Board has adopted the proposed definition of good faith and has provided an additional example of good faith in the Commentary.

Warranties

The Board proposed to amend § 229.34 to require the presenting bank to warrant to the paying bank that the total amount of the checks presented, as noted on the cash letter, equals the total amount as encoded in magnetic ink on the MICR lines of the checks. The proposed amount warranty would apply in any presentment situation, not just to presentment for same-day settlement under § 229.36(f). The Board requested comment on whether the proposed warranty should be extended to apply to any bank in the check collection or return chain that receives settlement for checks or returned checks or whether the warranty should be limited to checks presented for same-day settlement in accordance with proposed § 229.36(f).

The proposal did not include a warranty as to the accuracy of the encoding on each check (i.e., that the value of the check as encoded on its MICR line is equal to the face value of the check) because such a warranty is included in § 4–209 of the 1990 version of the UCC. Thus, in states that adopt the new UCC, the encoding banks would make warranties to cover encoding accuracy and these warranties would extend to all of the banks that subsequently handle the check.

The purpose of the proposed presenting bank amount warranty was to alleviate risk faced by the paying bank under the same-day settlement rule. Because the paying bank often will not have the time to verify the contents of a cash letter, the settlement will generally be made on the basis of the stated cash letter total. This total may be overstated due to an error by the presenting bank. If a paying bank fails to settle for the full amount of a cash letter, it may lose the right to return the checks it has received in the cash letter. Consequently, by settling for the stated amount of the cash letter, the paying bank would bear a risk, not of its own choice, that the presenting bank would be unable to unwilling to process adjustments for excess payments for same-day settlement cash letters. The proposed amount warranty would have placed a duty on the presenting bank to ensure the accuracy of its stated cash letter total.

The Board received 61 comments on the proposed amount warranty provisions. Thirteen commenters supported the proposal in general terms. Two commenters stated that the warranty would be difficult and costly for paying banks to enforce. Two commenters believed that the warranty would be of little use to the paying bank if the presenting bank fails, and two commenters stated that it is unclear whether the warranty would continue against the FDIC as receiver. The Board recognizes that the warranty provisions may be limited in their effectiveness but believes there are many situations in which they could alleviate risk to the paying bank.

Ten commenters supported the provisions of the proposal that applied the amount warranty to all cash letters presented, not just those presented under § 229.36(f). Two commenters stated that the warranty should be limited to same-day settlement situations because only under same-day settlement will the paying bank provide settlement on an unverified cash letter. However, the Board believes that many paying banks settle with private-sector presenting banks today based on the stated value of a cash letter prior to verification. Limiting the amount warranty to checks presented under § 229.36(f) would put an additional burden on the paying bank to show that the check had been presented as part of a same-day settlement cash letter. The Board believes that these results would be undesirable and may have a chilling effect on the paying bank's willingness to vary the terms of the same-day settlement rule by agreement with the presenting bank, if the variations result in the loss of the warranty protections. Thus, the Board has provided that the amount warranty covers all check presentments.

One commenter requested that the Board include a jurisdiction and venue provision allowing the paying bank to sue the presenting bank where the presentment is made rather than where the presenting bank is located. The Board has not included such a provision because it believes that jurisdictional determinations are more properly made by other law.

Twenty-six commenters supported the extension of the amount warranty to any bank in the forward collection or return chain that receives and settles for checks or returned checks; only one commenter stated that the warranty should be limited to checks presented to the paying bank. Those commenters in

favor of extending the warranty noted that an extension would improve the overall quality of cash letters, promote efficiency in the check collection system, and give the same rights and responsibilities to all banks in the system.

Twenty commenters requested that the regulation incorporate the UCC encoding warranty to ensure consistent rights for all payments system participants. The commenters stated that it is uncertain whether all states will adopt the new Article 4 promptly and that the paying bank requires the strongest protection possible.

The Board has adopted a modified version of the proposed amount warranty and has extended the warranty to all banks in the forward collection and return chain. Any bank that transfers and receives settlement for a check or return check warrants that the amount of settlement demanded or indicated on the cash letter equals the total of the checks transferred.

The Board also has adopted a modified version of the encoding warranty of § 4–209 of the 1990 UCC under which the transferring bank warrants that the MICR encoding on the checks transferred is accurate. This warranty differs from the ICC encoding warranty in that any transferring bank, rather than the encoding bank only, makes the encoding warranty. The difference is intended to facilitate the making of warranty claims by permitting them to be made against the presenting bank and then passed back up the collection chain, much in the same manner as other warranties under the UCC. In addition, the Board has provided a right of set-off in the regulation, allowing the paying bank to set off adjustment amounts owed by a presenting bank against future settlement payments to that presenting bank. The Commentary of § 229.34(c) has been revised to explain the modified warranties.

Preference/Security Interest

The Board proposed an amendment to § 229.39 of Regulation CC that would give a paying bank a preferred claim against a closed presenting bank in the event that the presenting bank did not reimburse the paying bank for adjustments owed to the paying bank. This proposed preference would have been available to paying banks versus presenting banks in all presentment situations and would not have been limited to presentments made in accordance with the same-day settlement rule. The Board requested comment on whether this preference for paying banks should be limited to checks presented for same-day settlement in accordance with § 229.36(f) or, alternatively, whether any bank in the forward collection or return chain that receives and settles for checks should have a preferred claim for adjustments versus the bank with which it settled.

The proposed preference applied to adjustments to a settlement made by the paying bank that is in excess of the value of the checks presented. The proposed preference extended to adjustments for inaccurate cash letter totals (warranted under § 229.34(c)) as well as to adjustments for encoding errors (warranted under revised UCC § 4–209). The Board requested comment on whether Regulation CC should provide a security interest to the paying bank in the proceeds of the settlement paid to the presenting bank, rather than the proposed preference.

The Board received 62 comments on the preference proposal. Twenty-five commenters supported the preference provision overall. Seventeen commenters expressed concern regarding the amount of protection the preference claim would afford paying banks, particularly because the paying bank would hold no collateral to secure possible adjustments. Six of these commenters stated that the preference provision may be inconsistent with other laws, such as the Federal Deposit Insurance Act, the National Bank Act, and state depositor preference laws. One commenter believed that the FDIC would need to issue regulations recognizing the preferred claim under Regulation CC. Another commenter stated provisions adopted by the Board, whether a preference claim or a security interest, should override state law and the UCC, but that a federal preference or security interest should not infringe on a bank's right to establish a security interest under state law when possible. This commenter also suggested that there be a federal right of set-off, rather than relying on state common law. (The Board has incorporated a set-off provision in § 229.34(c)(4).)

Seven commenters supported the alternative of providing the paying bank with a security interest in the proceeds of the settlement paid to the presenting bank, and one commenter suggested that the Board provide both a preferred claim and a security interest. Eleven comnmenters, however, identified problems with the security interest approach, such as the absence of collateral, the validity of the security interest under the Federal Deposit Insurance Act, and the proposal's lack of specificity.

The Board believes that the problems raised by the commenters regarding the preference provision would not be solved by giving the paying bank a security interest in the settlement amount. Even if the Board provided an automatic perfected security interest for the paying bank, the paying bank would not have possession of the settlement funds nor would the funds be readily distinguishable from the other assets of the presenting bank. Thus, the paying bank would have nothing to liquidate should the presenting bank fail. In the end, the security interest would have the same effect as the proposed preference.

Under 12 U.S.C. 1821(e)(11), the FDIC as receiver may not avoid any legally enforceable or perfected security interests in any of the assets of any depository institution except where such an interest is taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution. The Board has revised the Commentary to clarify that the preference is intended to be equivalent to a perfected security interest for purposes of the FDI Act and similar provisions of state law. Although it is possible to construe the preference for paying banks as inconsistent with the ratable distribution provisions of the National Bank Act, the Board believes the preference would be valid in many situations and thus has adopted a modified version of the proposal.

Twenty-two commenters supported the extension of the preference to all banks in the forward collection and return chain that receive and settle for checks or returned checks. Nine commenters supported the proposed language extending the preference to all paying banks, regardless of whether checks were presented for same-day settlement. Alternatively, three commenters favored limiting the preference claim to the paying bank under same-day settlement situations. These commenters noted that inclusion of other paying banks would dilute the protection of the paying bank under same-day settlement and that a higher preference is justified because the paying bank under same-day settlement is required to make settlement without regard to the risk characteristics of the presenting bank.

The Board has adopted the proposed language providing the preference claim to any paying bank, regardless of whether presentment was made for same-day settlement. The purpose of the preference is to provide protection to paying banks, which, under the same-day settlement rule, have no choice but

to settle with any banks that present checks in accordance with the rule. Therefore, the preferred claim established by § 229.39(e) is available only to paying banks and not to other banks in the forward collection or return chain. The preferred claim is not limited to same-day settlement situations so that the paying bank will not bear the burden of proving a particular check was presented for same-day settlement. The Board believes such a limitation could have a chilling effect on the paying bank's willingness to vary the terms of the same-day settlement rule by agreement with the presenting bank, if the variations result in the loss of the preferred claim protections.

The Board received several comments requesting various clarifications to the proposed preference provision. Five commenters suggested that the preferred claim or security interest (whichever the Board adopts) should extend to claims other than adjustments, such as breach of presentment warranty for forged or missing endorsements and alterations or failure to settle for a returned check. Section 229.39(a) of Regulation CC already provides that when a returned check is transferred to a bank that subsequently fails without settling for the check, the transferor bank is entitled to possession of the check and may return it through other channels. A preferred claim against a failed bank for forgeries, missing endorsements, and alterations may reduce risk to the paying bank; however, that risk is not directly related to the obligation to make same-day settlement under this rule and was not addressed in the original proposal. The Board may request comment in the future on an expansion of the preference to cover such presentment warranties.

One commenter requested that the Board use the term "first priority" because the term "preference," under the Bankruptcy Code, means a transfer subject to avoidance by the debtor or trustee. The Board used the term "preference" to conform to the usage of that term in the UCC, as well as in § 229.39 of Regulation CC. The Board believes that the context of the usage indicates that a "preference" in Regulation CC refers to a priority claim, not an avoidable transfer.

Other commenters requested that the Board establish a rule for prioritizing claims under the proposal and set time limits for making and paying claims. The Board believes these issues would be governed by other applicable state and federal law regarding claims on failed banks.

Some commenters suggested alternatives to the preference or security interest. One commenter suggested that the paying bank be allowed to establish an interest-bearing account for the presenting bank and require a sufficient balance to allow for payment of returns and adjustments. Paying interest on demand deposits is prohibited by various federal banking laws. Eight commenters suggested that the paying bank be allowed to refuse presentment from or defer settlement to a presenting bank with inadequate capital. These suggestions would impose conditions on same-day settlement that paying banks often require of presenting banks today. One of the purposes of the same-day settlement rule, as discussed elsewhere in this notice, is to eliminate such requirements.

For the reasons discussed above, the Board has adopted a modified version of the proposed preference, which gives the paying bank a preferred claim against a failed presenting bank that breaches an amount or encoding warranty as provided in § 229.34(c). The Board also has expanded the proposed Commentary to § 229.39(e) to clarify the intent of the provision.

Paying Bank Closed

Under the proposal, if the paying bank were closed voluntarily on a business day and were unable to settle for checks presented that day, the paying bank would have to settle for the checks by the close of its next banking day. In addition, the paying bank would have to pay interest compensation to the presenting bank for the value of the float associated with the delayed settlement. The Board proposed an amendment to § 229.2 to define "interest compensation" as an amount of money calculated at the Federal Funds rate as provided in § 4A–506(b) of the UCC.

The Board received 26 comments on the proposed rule for voluntary closing. Ten commenters supported the proposal overall. Twelve commenters asked the Board to clarify whether mandatory closing under state law is considered "voluntary." A bank may be closed under mandate of state law on a business day that is a state holiday. Closings required by law are not voluntary, and the rule's interest compensation provisions are not applicable to checks presented on those days. However, most state holidays are not mandatory bank holidays, rather they permit banks to close on those days. If a bank chose to close on such a day, the closing would be considered voluntary under the regulation. The Board has amended the regulation and revised the Commentary to reflect this distinction and to clarify that if the paying bank were closed on a business day, whether voluntarily or involuntarily, it would have to settle for the checks by the close of Fedwire on its next banking day. (However, interest compensation would be due only if the closing was voluntary.)

One commenter suggested that voluntary closure be defined according to local practice, and another commenter suggested that the Federal Reserve establish a uniform holiday schedule. The Board believes that federal and state laws are appropriate means to determining when closure is voluntary and that it is not necessary for the Board to preempt state law mandating bank closures on state holidays.

One commenter requested clarification of the paying bank's duties regarding checks received on weekends and holidays. The revised Commentary to § 229.36(f) addresses the duties of paying banks for checks presented after the 8 a.m. deadline. The revised Commentary (under the heading "Settlement") explains that checks received on days that are not business days, such as weekends or federal holidays, would be considered presented for same-day settlement on the next business day.

Three commenters requested clarification of the paying bank's duties for checks received when the paying bank is closed due to emergency conditions (e.g., because of power failures or natural disasters). Emergency situations are governed by § 229.38(e) of the regulation, which excuses certain delays if the bank exercises due diligence. UCC § 4–109(b) contains similar provisions for checks presented for settlement under the UCC. A cross-reference to these sections has been added to the Commentary.

Seven commenters asked the Board to clarify the effect on the return cycle when a paying bank closes on a business day. The Board has revised the Commentary to explain that the return "clock" for purposes of the UCC midnight deadline and expeditious return and notice of nonpayment under this regulation starts on the paying bank's first banking day after the business day it is closed. For example, assume a bank is closed on a Tuesday (a business day, not a banking day for that bank), checks are presented to it in accordance with the same-day settlement requirements before 8 a.m. on Tuesday, and the bank reopens on Wednesday. The paying bank would have to settle for or return the checks by the close of Fedwire on Wednesday (or by such later deadline pursuant to § 229.30(c)) or become accountable for

the checks. Assuming the paying bank settled on Wednesday, the UCC midnight deadline for the checks would be Thursday night. The expeditious return and notice of nonpayment "clock" would start on Wednesday. If the Tuesday closing was voluntary, and the paying bank settled Wednesday, it would have to pay one day's interest compensation to the presenting bank.

One commenter suggested that the paying bank be required to acknowledge receipt of checks presented when the bank is closed voluntarily. The Board believes that settlement by the paying bank on its next banking day (with interest) is an effective form of acknowledgement of receipt.

The Board received ten comments regarding the definition of interest compensation. Six commenters supported the proposed definition. One commenter opposed the definition because it added complexity to the float calculation process.

Two commenters suggested that the Board require a minimum value of checks presented before a presenting bank may demand interest compensation. The Board believes this issue is best resolved by agreement between the presenting and paying banks.

One commenter noted that using the Federal Funds rate would not discourage banks from establishing voluntary holidays because the Federal Funds rate is attractive compared to the rates charged to corporate borrowers. The Board, however, is not attempting to discourage voluntary closing, but rather is attempting to compensate presenting banks adequately when such closings occur.

For the reasons discussed above, the Board has adopted the proposed provisions regarding closed paying banks and interest compensation with minor technical changes and has revised the Commentary to clarify these provisions.

Adjustment, Quality, and Cash Letter Standards

The Board's proposal did not specify adjustment standards or other technical details, such as cash letter quality standards or minimum cash letter size. The Board stated in the proposal that it believes that resolution of these issues should not be imposed by federal regulation but can be more efficiently worked out between presenting banks and paying banks within the context of the good faith standard.

Fifty-nine commenters stated that adjustment standards should be established for presentments made under the final same-day settlement rule. These commenters did not indicate whether these standards should be incorporated into the rule itself. Six commenters stated that an industry group should be responsible for developing the adjustment standards. Five commenters stated that the Federal Reserve should be responsible for developing these standards. Only one commenter stated that adjustment standards are not necessary.

Five commenters stated that a lack of standardized adjustment procedures would increase risks to paying banks. Three additional commenters stated that a lack of standards would result in inconsistent handling of adjustments and a potential increase in errors.

The commenters in favor of adjustment standards stated that these standards should include a methodology for handling adjustments, time frames for resolution, and minimum dollar amounts for adjustment cases. Six commenters suggested time frames for adjustment resolution, ranging from five to twenty days. Three commenters suggested minimum dollar amounts for adjustments entries, ranging from $10 to $25, with smaller amounts absorbed by the bank. Three commenters suggested that a dollar threshold for adjustments should be established above which payment would be wired to the presenting bank. Two commenters stated that a nationwide arbitration system should be established to handle adjustment claims between banks. One commenter stated that the Federal Reserve should review its ability to monitor and provide settlement for adjustments to same-day settlement presentments to paying banks. Another commenter suggested that the Federal Reserve should operate an automated adjustment system to handle these adjustments.

Fifty-seven commenters stated that quality standards for deposits should be established for presentments made under a same-day settlement rule. These commenters stated that the absence of standards increases the likelihood of disputes between presenting banks and paying banks. They also stated that the proposal's good faith standard was not sufficient to control quality. One commenter suggested that the standards should be the same as those currently required for deposits to Reserve Banks.

The commenters suggested a range of quality standards for deposits. Eleven commenters suggested cash letter formats and standards. Six commenters stated that a reject rate threshold should be established. Three commenters stated that packaging standards should be developed. An additional three commenters stated that the quality standards should require checks to be pre-encoded and machine-readable, including the dollar amount in the MICR line.

Seventeen commenters stated that there should be penalties for noncompliance with the quality standards. They stated that paying banks should be allowed to charge presentment fees, delay settlement, or refuse the presentment when the quality standards are not met.

Twenty-five commenters stated that the same-day settlement rule should require that presentments exceed a minimum number of checks, with the majority of these commenters suggesting a threshold of 300 to 500 checks. Nineteen commenters stated that the final rule should specify that presentments must consist of a minimum dollar value, ranging from $50,000 to $100,000. These commenters stated that these guidelines are necessary to ensure that presentments are of a sufficient size and dollar value to justify the processing and settlement expense. They stated that presentments of cash letters containing a small number of checks and/or low-value checks would result in increased costs and reduced efficiencies for the paying bank.

The Board believes that it is preferable that market forces determine the development of adjustment and quality standards. The Board believes that the appropriate technical requirements and standards with respect to presentments made under the same-day settlement rule are likely to evolve over time as check collection practices change. Therefore, the Board believes that incorporating such requirements and standards in the regulation may be unnecessarily inflexible and that the standards can be more efficiently worked out in the marketplace within the context of the good faith standard. In this context, industry guidelines might be used as a benchmark against which violations of the good faith standard could be judged.

Effective Date.

The Board received seven comments regarding the effective date of the final rule. Commenters suggested effective dates ranging from six months to two years following adoption of the final rule. One commenter suggested that the rule should be effective for a one-year pilot period and the results should then be assessed.

The Board has established an effective date of January 3, 1994. The Board believes that a fifteen month implementation period provides sufficient transition time to minimize

any initial implementation disruptions and costs incurred by paying banks and presenting banks.

Direct Net Social Benefit of the Final Rule

This analysis evaluates the direct net social benefit of the same-day settlement rule.[12] The primary direct effect of same-day settlement will be a reduction in check volume and commensurate costs of intermediary banks, and in particular Reserve Banks, resulting from an increase in the number of checks directly presented to paying banks by prior banks in the collection chain. While some categories of costs (e.g., transportation cost and settlement cost) will increase in a same-day settlement environment, other cost components, primarily check processing cost, will decline in the longer term as checks are handled on average by fewer banks. Overall, the total short-term direct net social cost of same-day settlement is estimated to be approximately $13 million per year. The longer-term direct net social costs are estimated to be negligible (less than $3 million per year).

Estimates of the direct social benefits and costs of same-day settlement to Reserve Banks, private-sector collection banks (in their roles both as intermediary banks and presenting banks), and paying banks are provided below.

Reserve Banks

The volume of checks collected through the Reserve Banks will likely decline as a result of the same-day settlement rule.[13] The demand for Reserve Bank check services will likely be reduced because banks will no longer need to use the Reserve Banks as a means of avoiding presentment barriers imposed by paying banks. The Reserve Banks estimate that the same-day settlement rule will result in a reduction in their fine-sort volume of 40 percent, or over 5,000 packages containing a total of more than 8 million checks per day. They estimate that Reserve Bank unsorted check deposits will decline by about 10 percent, or by 6 million checks per day. This represents a total volume loss from same-day settlement of 3.6 billion items per year, almost 18 percent of total Federal Reserve check volume. Corresponding revenue loss is estimated to be $55.7 million per year (approximately 9 percent of total revenue).

While the revenue loss by the Federal Reserve is offset by a corresponding reduction in fees paid by banks and, so, does not affect net social benefit, the cost savings associated with the reduction in the volume of checks collected through the Reserve Banks is a direct social benefit. The Reserve Banks estimate a short-run check collection cost savings of $9.1 million per year, and a longer-run cost savings of $20 million per year.[14]

Same-day settlement also may affect Federal Reserve services to paying banks. Due to the projected volume decline, the Reserve Banks may be unable to provide a paying bank with information on as large a portion of the paying bank's incoming check volume. Not taking into consideration any revenue or cost associated with potential supplemental payor bank services, the Reserve Banks estimate that payor bank services revenue will fall by about 20 percent or $3.3 million per year, while the corresponding reduction in payor bank services cost will be an estimated $1.9 million per year.[15]

The direct net social benefit of the same-day settlement rule, attributable to coast savings of the Reserve Banks, is estimated at $21.9 million per year.

Private-sector Collecting Banks

Same-day settlement will decrease the processing costs of correspondent intermediary banks to the extent that they experience volume declines, and will likely increase processing transportation, and settlement costs of private-sector presenting banks.[16]

To the extent that banks present checks to paying banks that they currently deposit unsorted in correspondent banks, the processing costs of the correspondent intermediaries would decrease. If unsorted check volume decreases by 1 million checks per day at private-sector correspondent banks as a result of same-day settlement, cost savings are estimated at $1.5 million per year.[17]

Private-sector banks would incur some incremental transportation cost to directly present checks that currently are collected through intermediary banks. Additional transportation expenses of a presenting bank are unlikely to be matched by reductions in the transportation expenses of intermediary banks that currently collect the checks because there are large economies of scale in the delivery of checks.

Many local checks could be delivered by banks as part of existing courier routes, including routes to branches of the presenting bank. Other deliveries may require the presenting bank to use additional courier services. The incremental cost to presenting banks for transporting these checks will depend on the degree of coordination among presenting banks and courier services. The analysis assumes that air transportation is made on existing flights and some, but not complete, coordination in ground transportation. The estimated level of coordination reflects both existing coordination in air transportation and the economies of scale in both air and ground transportation. The incremental transportation cost to present checks directly that are now collected through an intermediary bank is estimated at $6.3 million per year.[18] This cost might

[12] Net social benefit measures changes in efficiency, and is the net decrease or increase in the total resource cost of operating the payments mechanism. In contrast, net private benefit is the net benefit or cost of same-day settlement to a particular party in the check system. The net private benefit of same-day settlement can be positive even though the net social benefit is negative, if real resource cost increases incurred by presenting banks are offset by wealth transfers (e.g., reduced fees paid to intermediary banks or paying banks), which do not affect net social benefit.

[13] Commenters on the proposed rule generally anticipated that Reserve Bank check volume would decline as a result of the rule, due to increased direct presentments as well as a shift in volume from Reserve Banks to private-sector intermediary banks. Several commenters stated that the Reserve Banks' remaining volume would consist of checks drawn on remote or low-volume endpoints. A few commenters noted that Reserve Banks would be able to retain check volume through product innovation, the proposed same-day settlement services, presentment deadlines later than private-sector intermediary collecting bank deadlines, tiered pricing, and cost reduction efforts. The majority of comments anticipated that Reserve Banks should increase their check collection fees in light of their volume declines.

[14] Some of the estimated longer-run cost savings is attributable to productivity gains by the Reserve Banks, in addition to the volume decline. The productivity gains would be prompted by the increased competition between Reserve Banks and private-sector banks resulting from the same-day settlement rule.

[15] The $1.9 million annual cost savings assumes that 65 percent of the revenue loss, net of PSAF, represents costs that would not be incurred if payor bank service volume decreases as projected.

[16] Commenters on the proposed rule generally anticipated that collecting banks' overall check collection costs would decrease due to the elimination of presentment fees and reduced reliance on intermediary collection banks. These cost reductions are wealth transfers that do not directly affect the net social benefit of the final rule.

[17] The Federal Reserve's average direct and support cost of processing a check is approximately 1.4 cents. Approximately 50 percent of the cost of processing checks is personnel and supplies cost. Because processing fewer items decreases personnel cost less than proportionally, an estimate of 0.6 cents per check is used to estimate the cost savings to private-sector intermediary banks.

[18] The Reserve Banks estimate that 2100 banks would receive direct presentments. Board staff estimates that each of these banks would receive

Continued

be reduced if later delivery deadlines allow banks to use transportation that is less time sensitive.

Direct presentment may also change check collection processing costs. Most banks will use existing sorting equipment to prepare checks for direct presentment (if these checks are not already fine sorted). But, banks may change processing schedules, possibly including changing staffing, to meet the 8:00 a.m. presentment deadline rather than the deposit deadlines of the Reserve Banks or their correspondent banks or the presentment deadlines currently established by agreements with paying banks. For example, banks may change the pattern of sorting checks to take advantage of same-day settlement by fine sorting checks for direct presentment to distant endpoints earlier in the processing cycle.

The change in banks' processing cost for checks that are presented directly under same-day settlement and are currently deposited fine sorted in Reserve Banks is likely to be very small, given that these checks are already fine sorted.

The incremental cost of directly presenting checks under same-day settlement that are currently deposited in an intermediary bank unsorted includes the cost of fine sorting the checks. Generally, banks will find it cost effective to fine sort to additional endpoints only if they can do so with their existing check sorter capacity. If it is assumed that no new equipment is acquired by presenting banks, that the incremental processing cost to a bank of fine sorting additional checks is 0.6 cents per check, and that a total of 7 million checks per day that are currently deposited unsorted in intermediary banks will be directly presented under same-day settlement,[19] the additional processing cost is estimated to be $10.5 million per year.

Settlement cost will also increase under same-day settlement as checks that are currently collected and settled through the Reserve Banks must be settled by Fedwire transfer. The cost of Fedwire funds transfers sent by paying banks to settle with presenting banks is estimated to increase the costs of presenting banks by $1.7 million. (Paying banks would incur the same incremental settlement cost, since the cost of Fedwire funds transfers are assessed on both the sending and receiving banks.)[20]

By directly presenting checks under the terms of the same-day settlement rule, banks also eliminate fees that are currently paid to intermediary banks and paying banks. As mentioned earlier, this influences a bank's decision to present directly under same-day settlement, but does not affect net social benefit.

The direct net social cost of the same-day settlement rule resulting from incremental transportation, processing, and settlement cost for private-sector collecting banks is estimated at $17.0 million per year.

Paying Banks

Under the same-day settlement rule, a paying bank's cost to process a larger number of presentments will likely increase, as will its settlement cost and its cost to obtain electronic MICR line data for cash management services or customer account posting.[21] In addition, a paying bank may assume somewhat higher risk associated with returned checks and adjustments. Although paying banks also will lose presentment fee income and income from balances held by presenting banks, this represents a wealth transfer from the paying bank to presenting banks, and thus does not affect direct social cost or benefit.

Under same-day settlement, paying banks will not have as much control as they do today over the number of banks from which they receive separate presentments (although the total number of checks received by a paying bank will not be affected by the same-day settlement rule, except to the extent that the shift in costs encourages a migration to electronic payments). If banks that currently collect checks through intermediary banks choose to present the checks directly to a paying bank when same-day settlement becomes effective, the paying bank may have to increase staff to process the additional presentments. The additional staffing cost, if not matched by a reduction in intermediary bank cost, will be a net social cost. Based on the average Federal Reserve personnel cost for fine sort processing of $1 per fine sort package, the Board estimates that the additional personnel cost necessary to process the additional cash letters is $3.2 million per year.[22]

The volume of checks processed for payor bank services by the Reserve Banks is estimated to decrease by more than 200 million checks per year if same-day settlement is adopted.[23] The MICR data currently captured by the Reserve Banks from these checks would be obtained by the paying bank in one of three ways. First, the paying bank can capture its MICR data itself; second, it can contract with an intercept processor or other third party to obtain the MICR data; or, third, it can contract with the presenting bank to obtain this information. The paying bank is assumed to choose the alternative that will provide the electronic MICR information at the least cost and within the paying bank's timeliness requirements. Generally, the presenting bank would be able to provide the electronic MICR information at the least cost and in the most timely manner, because the information can be captured as an ancillary part of the presenting bank's check collection processing function. The presenting bank generally

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direct presentments from an average of 6 or 7 banks. Coordination among banks (different banks using the same courier) and the ability of banks to present checks while making branch deliveries is assumed to reduce the number of potential courier stops by slightly over two thirds. Thus, it is estimated that there would be 2 additional courier stops per bank making direct presentments under same-day settlement, or 4200 additional courier stops per day at an assumed cost of $6 per courier stop. Therefore, the incremental transportation cost is estimated to be $6.3 million per year.

[19] The calculation of the estimated 0.6 cents processing cost is described in footnote 17. As noted above, Reserve Bank and correspondent bank check collection volume is estimated to decline by approximately 6 million checks and 1 million checks per day, respectively.

[20] The marginal cost for sending or receiving a Fedwire funds transfer is estimated to be $0.53, the Federal Reserve fee for sending and receiving banks with electronic access to the Federal Reserve. Most banks that will present or receive checks under same-day settlement have an electronic connection to the Federal Reserve for Fedwire service. The total funds transfer charge is based on 13,000 funds transfers per day. There may be some banks with small additional incremental costs from processing funds transfers. These additional costs are expected to be fairly low, and are not included in the estimated cost increase.

[21] Commenters generally believed that the proposed rule would increase paying banks' operational costs, due to increased direct presentments. Commenters also stated that the proposed rule would result in: Increased complexity in the paying bank's check operation and a corresponding loss of efficiency; the need for additional staff and additional equipment in order to handle the additional direct presentments; and an increase in paying banks' settlement and reconcilement costs. Commenters stated that paying banks would lose revenue from presentment fee income and correspondent balances as a result of the rule, which are currently used to offset the processing and settlement costs associated with direct presentments. The paying banks' increased operational costs and revenue losses are wealth transfers that do not affect the net social benefit of the final rule.

[22] The Reserve Banks estimate that each day approximately 5000 fine sort packages that are currently deposited with the Reserve Banks will be presented directly under same-day settlement. In addition, it is estimated that checks from approximately 3,500 to 4,000 unsorted cash letters will be outsorted and presented directly. If checks from each cash letter are presented directly to an average of 2 banks, then same-day settlement will increase direct presentments by approximately 13,000 fine sort packages per day.

[23] The estimate of volume loss does not reflect any potential volume from supplemental payor bank services.

will provide MICR data to the paying bank if it can recover its additional cost of providing the electronic data, either directly or through later delivery of the physical checks. To the extent that the MICR data is not provided by the presenting bank, the checks will have to be run through a sorter again to obtain the MICR data. It is estimated that the additional processing cost for paying banks from the need to retrieve MICR information from these checks is $2.5 million per year.[24]

Same-day settlement will increase risk for paying banks because they may receive direct presentments from banks that may fail before the resolution of all resulting adjustments. Under same-day settlement, a paying bank is required to credit the account of the presenting bank on the day of presentment. Unless the losses cause the paying bank to fail, there is no net social cost, however, since the losses paying banks suffer when presenting banks fail are transfers from the paying bank to the creditors of the presenting bank. It is unlikely that a return or adjustment problem with a failed presenting bank will cause a paying bank to fail.

As noted in the discussion of private-sector collecting bank costs, paying banks would incur an incremental cost of $1.7 million for Fedwire funds transfers sent to presenting banks to settle for checks presented under the same-day settlement rule. The net social cost of same-day settlement resulting from the increase in processing costs, costs to obtain electronic MICR data, and settlement costs at paying banks is estimated at $7.4 million per year.

The table below summarizes the direct benefits and costs of same-day settlement on banks in the check system.

[24] The estimated cost for retrieving MICR data depends on the timeliness with which the paying bank needs the data. Assume that the cost to the average bank of retrieving data is equal to the average Reserve Bank direct cost for MICR capture, which is approximately 0.3 cents per item, plus an overhead cost of 0.5 cents per item. Assume further that the cost of retrieving data at banks that provide cash management services is 150 percent of that at average banks and that 75 percent of the reduction in payor bank service volume is directly presented to cash management banks. Therefore, the total additional data retrieval cost for 225 million items is $2.5 million. This cost will decrease if paying banks obtain MICR data directly from presenting banks.

DIRECT NET SOCIAL BENEFIT (COST)

(In $ Millions/Year)

	Process-ing	Transpor-tation	Electronic MICR data	Settle-ment	Total direct benefit (cost)
Reserve Banks	9.1 *20.0		1.9	 *21.9	11.0
Private-Sector Collecting Banks	(9.0)	(6.3)		(1.7)	(17.0)
Paying Banks	(3.2)		(2.5)	(1.7)	(7.4)
Total direct benefit (cost)	(3.1) *7.8	(6.3)	(0.6)	(3.4)	(13.4) (2.5)

* Longer-term benefits (costs).

In summary, in a same-day settlement environment, the volume of checks collected through the Reserve Banks will likely decline, which will allow the Reserve Banks to reduce costs by approximately $11 million annually in the short term and by another $11 million per year in the longer term. Private-sector collecting banks are expected to increase expenses by approximately $17 million, primarily to process and transport checks for direct presentment that are now collected through the Reserve Banks.[25] The costs at paying banks are expected to increase by $7.4 million to accommodate the shift in the source of receipt of checks from the Reserve Banks to private-sector presenting banks.

Based on this analysis, the Board has concluded that the direct net social benefit of the same-day settlement rule is insignificant compared to the total resource cost of the check system. However, the Board believes that the indirect effects resulting from the shift in bargaining power between the presenting bank and the paying bank will result in significant net social benefits. These benefits are discussed earlier in this notice.

[25] While the analysis indicates that the direct net social benefit attributable to private-sector collecting banks is negative, their net private benefit is positive, due to the $56 million annual reduction in fees paid to the Reserve Banks, which more than offsets the real resource cost increase that they incur. Similarly, the Reserve Banks experience a negative net private benefit from the same-day settlement rule, since their revenue decline significantly exceeds their cost savings.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The final rule will apply to all banks, regardless of size. Small banks have raised two major factors that could have a negative economic impact, but the Board believes that providing alternative treatment for small banks, such as exempting them from the regulation's coverage, would fail to ameliorate all of the small banks' concerns and would be counter to the purposes of the rule.

Some small banks have argued that, as a result of the rule, more banks will present directly for same-day settlement and check volume will shift from the Federal Reserve to the private sector, causing an increase in the Federal Reserve's check collection fees. Some small banks have argued that correspondent bank fees also will rise because, historically, the Federal Reserve's fees have been the ceiling for check collection fees. Small banks, many of which collect checks through the Federal Reserve due to their reluctance to collect checks through correspondent banks with which they compete, believe the long-term effects of

the rule would benefit primarily larger correspondent banks.

The collection cost issues raised by small banks are related to the secondary effects of the rule, and the volume shifts that may take place would be attributable primarily to the applicability of the same-day settlement rule to large paying banks. Thus, excluding small banks from coverage would not prevent most of the volume shifts and the attendant potential price increases from taking place.

Another potential economic burden on paying banks is the risk associated with settling for checks without having time to verify the contents of the cash letter. The paying bank would bear a risk, not of its own choice, that the presenting bank would be unable or unwilling to process adjustments for any excess payments. The Board notes that all paying banks, not only small ones, would face this risk. Further, because of the relatively low volume of checks drawn on small banks, in many cases it will not be cost effective for a presenting bank to transport checks for direct presentment to a small paying bank. Thus, the Board believes that small banks will face less "adjustment risk" relative to larger banks that receive a large volume of check presentments. In addition, because the primary purpose of the proposal is to increase the efficiency of the check collection process, to exclude small banks from the requirement of making same-day settlement would be counter to the chief objective of the proposal. The Board believes that any burden on small banks would be outweighed by the improvements in the payments system under a rule that applies to all checks and all banks.

List of Subjects in 12 CFR Part 229

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 12 CFR part 229 is amended as follows:

PART 229—[AMENDED]

1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001 *et seq.*

2. In § 229.1, the last sentence of paragraph (b)(3) is revised to read as follows#:

§ 229.1 Authority and purpose; organization.

* * * * *

(b) * * *

(3) * * * These rules cover the direct return of checks, the manner in which the paying bank and returning banks must return checks to the depositary bank, notification of nonpayment by the paying bank, indorsement and presentment of checks, same-day settlement for certain checks, the liability of banks for failure to comply with subpart C of this part, and other matters.

3. In § 229.2, paragraph (mm) is redesignated as paragraph (pp) and new paragraphs (mm), (nn), and (oo) are added to read as follows:

§ 229.2 Definitions.

* * * * *

(mm) *Fedwire* has the same meaning as that set forth in § 210.26(e) of this chapter.

(nn) *Good faith* means honesty in fact and observance of reasonable commercial standards of fair dealing.

(oo) *Interest compensation* means an amount of money calculated at the average of the Federal Funds rates published by the Federal Reserve Bank of New York for each of the days for which interest compensation is payable, divided by 360. The Federal Funds rate for any day on which a published rate is not available is the same as the published rate for the last preceding day for which there is a published rate.

* * * * *

4. In § 229.30, paragraph (c) introductory text is revised to read as follows:

§ 229.30 Paying bank's responsibility for return of checks.

* * * * *

(c) *Extension of deadline.* The deadline for return or notice of nonpayment under the U.C.C., Regulation J (12 CFR Part 210), or § 229.36(f)(2) of this part is extended:

* * * * *

5. In § 229.34, the heading is revised, paragraphs (c) and (d) are revised and redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to read as follows:

§ 229.34 Warranties.

* * * * *

(c) *Warranty of settlement amount, encoding, and offset.* (1) Each bank that presents one or more checks to a paying bank and in return receives a settlement or other consideration warrants to the paying bank that the total amount of the checks presented is equal to the total amount of the settlement demanded by the presenting bank from the paying bank.

(2) Each bank that transfers one or more checks or returned checks to a collecting, returning, or depositary bank and in return receives a settlement or other consideration warrants to the transferee bank that the accompanying information, if any, accurately indicates the total amount of the checks or returned checks transferred.

(3) Each bank that presents or transfers a check or returned check warrants to any bank that subsequently handles it that, at the time of presentment or transfer, the information encoded after issue in magnetic ink on the check or returned check is correct.

(4) A paying bank may set off the amount by which the settlement paid to a presenting bank exceeds the total amount of the checks presented against subsequent settlements for checks presented by that presenting bank.

(d) *Damages.* Damages for breach of these warranties shall not exceed the consideration received by the bank that presents or transfers a check or returned check, plus interest compensation and expenses related to the check or returned check, if any.

(e) *Tender of defense.* If a bank is sued for breach of a warranty under this section, it may give a prior bank in the collection or return chain written notice of the litigation, and the bank notified may then give similar notice to any other prior bank. If the notice states that the bank notified may come in and defend and that failure to do so will bind the bank notified in an action later brought by the bank giving the notice as to any determination of fact common to the two litigations, the bank notified is so bound unless after seasonable receipt of the notice the bank notified does come in and defend.

6. In § 229.36, a new paragraph (f) is added to read as follows:

§ 229.36 Presentment and issuance of checks.

* * * * *

(f) *Same-day settlement.* (1) A check is considered presented, and a paying bank must settle for or return the check pursuant to paragraph (f)(2) of this section, if a presenting bank delivers the check in accordance with reasonable delivery requirements established by the paying bank and demands payment under this paragraph (f)—

(i) At a location designated by the paying bank for receipt of checks under this paragraph (f) that is in the check processing region consistent with the routing number encoded in magnetic ink on the check and at which the paying bank would be considered to have received the check under paragraph (b) of this section or, if no location is designated, at any location described in paragraph (b) of this section; and

(ii) By 8 a.m. on a business day (local time of the location described in paragraph (f)(1)(i) of this section).

A paying bank may require that checks presented for settlement pursuant to this paragraph (f)(1) be separated from other forward-collection checks or returned checks.

(2) If presentment of a check meets the requirements of paragraph (f)(1) of this section, the paying bank is accountable to the presenting bank for the amount of the check unless, by the close of Fedwire on the business day it receives the check, it either:

(i) Settles with the presenting bank for the amount of the check by credit to an account at a Federal Reserve Bank designated by the presenting bank; or

(ii) Returns the check.

(3) Notwithstanding paragraph (f)(2) of this section, if a paying bank closes on a business day and receives presentment of a check on that day in accordance with paragraph (f)(1) of this section, the paying bank is accountable to the presenting bank for the amount of the check unless, by the close of Fedwire on its next banking day, it either:

(i) Settles with the presenting bank for the amount of the check by credit to an account at a Federal Reserve Bank designated by the presenting bank; or

(ii) Returns the check.

If the closing is voluntary, unless the paying bank settles for or returns the check in accordance with paragraph (f)(2) of this section, it shall pay interest compensation to the presenting bank for each day after the business day on which the check was presented until the paying bank settles for the check, including the day of settlement.

7. In § 229.39, paragraph (d) is redesignated as paragraph (e), and a new paragraph (d) is added to read as follows:

§ 229.39 Insolvency of bank.

* * * * *

(d) *Preference against presenting bank.* If a paying bank settles with a presenting bank for one or more checks, and if the presenting bank breaches a warranty specified in § 229.34(c) (1) or (3) with respect to those checks and suspends payments before satisfying the paying bank's warranty claim, the paying bank has a preferred claim against the presenting bank for the amount of the warranty claim.

* * * * *

Appendix E to Part 229—[Amended]

8. The Commentary to § 229.2 is amended by adding and reserving a new paragraph (mm) and adding new paragraphs (nn) and (oo) to read as follows:

Section 229.2 Definitions

* * * * *

(mm) [Reserved]

(nn) *Good faith.* This definition of good faith derives from U.C.C. § 3-103(a)(4).

(oo) *Interest compensation.* This calculation of interest compensation derives from U.C.C. § 4A-506(b). (See §§ 229.34(d) and 229.36(f).)

9. The Commentary to § 229.30(c) is amended by revising the introductory text, the first two sentences in paragraph (c)(1), the second sentence in paragraph (c)(2), the first sentence of the undesignated paragraph immediately following paragraph (c)(2), and the two undesignated paragraphs preceding paragraph (d) to read as follows:

Section 229.30 Paying Bank's Responsibility for Return of Checks

* * * * *

(c) *Extension of deadline.* This paragraph permits extension of the deadlines for returning a check for which the paying bank has previously settled (generally midnight of the banking day following the banking day on which the check is received by the paying bank) and for returning a check without settling for it (generally midnight of the banking day on which the check is received by the paying bank, or such other time provided by § 210.9 of Regulation J (12 CFR Part 210) or § 229.36(f)(2) of this part), but not of the duty of expeditious return, in two circumstances:

(1) A paying bank may have a courier that leaves after midnight (or after any other applicable deadline) to deliver its forward-collection checks. This paragraph removes the constraint of the deadline for returned checks if the returned check reaches either the depositary bank or the returning bank to which it is sent on that bank's banking day following the expiration of the applicable deadline. * * *

(2) * * * In such a case, the U.C.C. deadline for returning checks received and settled for on Friday, or for returning checks received on Saturday without settling for them, might require the bank to return the checks by midnight Saturday. * * *

The time limits that are extended in each case are the paying bank's midnight deadline for returning a check for which it has already settled and the paying bank's deadline for returning a check without settling for it in U.C.C. §§ 4-301 and 4-302, §§ 210.9 and 210.12 of Regulation J (12 CFR 210.9 and 210.12) and § 229.36(f)(2). * * *

The paying bank satisfies its midnight or other return deadline by dispatching returned checks to another bank by courier, including a courier under contract with the paying bank, prior to expiration of the deadline.

This paragraph directly affects U.C.C. §§ 4-301 and 4-302 and §§ 210.9 and 210.12 of Regulation J (12 CFR 210.9 and 210.12) to the extent that this paragraph applies by its terms, and may affect other provisions.

* * * * *

10. The Commentary to § 229.34 is amended by revising the heading, revising and redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, and adding a new paragraph (c) to read as follows:

Section 229.34 Warranties

* * * * *

(c) *Warranty of settlement amount, encoding, and offset.* Paragraph (c)(1) provides that a bank that presents and receives settlement for checks warrants to the paying bank that the settlement it demands (e.g., as noted on the cash letter) equals the total amount of the checks it presents. This paragraph gives the paying bank a warranty claim against the presenting bank for the amount of any excess settlement made on the basis of the amount demanded, plus expenses. If the amount demanded is understated, a paying bank discharges its settlement obligation under U.C.C. § 4-301 by paying the amount demanded, but remains liable for the amount by which the demand is understated; the presenting bank is nevertheless liable for expenses in resolving the adjustment.

When checks or returned checks are transferred to a collecting, returning, or depositary bank, the transferor bank is not required to demand settlement, as is required upon presentment to the paying bank. However, often the checks or returned checks will be accompanied by information (such as a cash letter listing) that will indicate the total of the checks or returned checks. Paragraph (c)(2) provides that if the transferor bank includes information indicating the total amount of checks or returned checks transferred, it warrants that the information is correct (i.e., equals the actual total of the items).

Paragraph (c)(3) provides that a bank that presents or transfers a check or returned check warrants the accuracy of the magnetic ink encoding that was placed on the item after issue, and that exists at the time of presentment or transfer, to any bank that subsequently handles the check or returned check. Under U.C.C. § 4-209(a), only the encoder (or the encoder and the depositary bank, if the encoder is a customer of the depositary bank) warrants the encoding accuracy, thus any claims on the warranty must be directed to the encoder. Paragraph (c)(3) expands on the U.C.C. by providing that all banks that transfer or present a check or returned check make the encoding warranty. In addition, under the U.C.C., the encoder makes the warranty to subsequent collecting banks and the paying bank, while paragraph (c)(3) provides that the warranty is made to banks in the return chain as well.

A paying bank that settles for an overstated cash letter because of a misencoded check may make a warranty claim against the presenting bank under paragraph (c)(1) (which would require the paying bank to show that the check was part of the overstated cash letter) or an encoding warranty claim under paragraph (c)(3) against the presenting bank or any preceding bank that handled the misencoded check.

Paragraph (c)(4) provides that the paying bank may set off any excess settlement made against settlement owed to the presenting bank for checks presented subsequently.

(d) *Damages.* This paragraph adopts for the warranties in § 229.34 (a), (b), and (c) the damages provided in U.C.C. § 4–207(c) and 4A–506(b). (See definition of "interest compensation" in § 229.2(oo).)

(e) *Tender of defense.* This paragraph adopts for this regulation the vouching-in provisions of U.C.C. § 3–119.

11. The Commentary to § 229.36 is amended by adding a new paragraph (f) to read as follows:

Section 229.36 Presentment and Issuance of Checks

* * * * *

(f) *Same-day settlement.* This paragraph provides that, under certain conditions, a paying bank must settle with a presenting bank for a check on the same day the check is presented in order to avail itself of the ability to return the check on its next banking day under §§ 4–301 and 4–302 of the U.C.C. This paragraph does not apply to checks presented for immediate payment over the counter. Settling for a check under this paragraph does not constitute final payment of the check under the U.C.C. This paragraph does not supersede or limit the rules governing collection and return of checks through Federal Reserve Banks that are contained in subpart A of Regulation J (12 CFR Part 210).

(1) Presentment Requirements

Location and time. For presented checks to qualify for mandatory same-day settlement, information accompanying the checks must indicate that presentment is being made under this paragraph—e.g. "these checks are being presented for same-day settlement"—and must include a demand for payment of the total amount of the checks together with appropriate payment instructions in order to enable the paying bank to discharge its settlement responsibilities under this paragraph. In addition, the check or checks must be presented at a location designated by the paying bank for receipt of checks for same-day settlement by 8 a.m. local time of that location. The designated presentment location must be a location at which the paying bank would be considered to have received a check under § 229.36(b). The paying bank may not designate a location solely for presentment of checks subject to settlement under this paragraph; by designating a location for the purposes of § 229.36(f), the paying bank agrees to accept checks at that location for the purposes of § 229.36(b).

The designated presentment location also must be within the check processing region consistent with the nine-digit routing number encoded in magnetic ink on the check. A paying bank that uses more than one routing number associated with a single check processing region may designate, for purposes of this paragraph, one or more locations in that check processing region at which checks will be accepted, but the paying bank must accept any checks with a routing number associated with that check processing region at each designated location. A paying bank may designate a presentment location for travelers checks with an 8000-series routing number anywhere in the country because these travelers checks are not associated with any check processing region. The paying bank, however, must accept at that presentment location any other checks for which it is paying bank that have a routing number consistent with the check processing region of that location.

If the paying bank does not designate a presentment location, it must accept presentment for same-day settlement at any location identified in § 229.36(b), i.e., at an address of the bank associated with the routing number on the check, at any branch or head office if the bank is identified on the check by name without address, or at a branch, head office, or other location consistent with the name and address of the bank on the check if the bank is identified on the check by name and address. A paying bank and a presenting bank may agree that checks will be accepted for same-day settlement at an alternative location (e.g., at an intercept processor located in a different check processing region) or that the cut-off time for same-day settlement be earlier or later than 8 a.m. local time.

In the case of a check payable through a bank but payable by another bank, this paragraph does not authorize direct presentment to the bank by which the check is payable. The requirements of same-day settlement under this paragraph would apply to a payable-through or payable-at bank to which the check is sent for payment or collection.

Reasonable delivery requirements. A check is considered presented when it is delivered to and payment is demanded at a location specified in paragraph (f)(1). Ordinarily, a presenting bank will find it necessary to contact the paying bank to determine the appropriate presentment location and any delivery instructions. Further, because presentment might not take place during the paying bank's banking day, a paying bank may establish reasonable delivery requirements to safeguard the checks presented, such as use of a night depository. If a presenting bank fails to follow reasonable delivery requirements established by the paying bank, it runs the risk that it will not have presented the checks. However, if no reasonable delivery requirements are established or if the paying bank does not make provisions for accepting delivery of checks during its non-business hours, leaving the checks at the presentment location constitutes effective presentment.

Sorting of checks. A paying bank may require that checks presented to it for same-day settlement be sorted separately from other forward-collection checks it receives as a collecting bank or returned checks it receives as a returning or depositary bank. For example, if a bank provides correspondent check collection services and receives unsorted checks from a respondent bank that include checks for which it is the paying bank and that would otherwise meet the requirements for same-day settlement under this section, the collecting bank need not make settlement in accordance with paragraph (f)(2). If the collecting bank receives sorted checks from its respondent bank, consisting only of checks for which the collecting bank is the paying bank and which meet the requirements for same-day settlement under this paragraph, the collecting bank may not charge a fee for handling those checks and must make settlement in accordance with this paragraph.

(2) Settlement

If a bank presents a check in accordance with the time and location requirements for presentment under paragraph (f)(1), the paying bank must either settle for the check on the business day it receives the check without charging a presentment fee or return the check prior to the time for settlement. (This return deadline is subject to extension under § 229.30(c).) The settlement must be in the form of a credit to an account designated by the presenting bank at a Federal Reserve Bank (e.g., a Fedwire transfer). The presenting bank may agree with the paying bank to accept settlement in another form (e.g., credit to an account of the presenting bank at the paying bank or debit to an account of the paying bank at the presenting bank). The settlement must occur by the close of Fedwire on the business day the check is received by the paying bank. Under the provisions of § 229.34(c), a settlement owed to a presenting bank may be set off by adjustments for previous settlements with the presenting bank. (See also § 229.39(d).)

Checks that are presented after the 8 a.m. (local time) presentment deadline for same-day settlement and before the paying bank's cut-off hour are treated as if they were presented under other applicable law and settled for or returned accordingly. However, for purposes of settlement only, the presenting bank may require the paying bank to treat such checks as presented for same-day settlement on the next business day in lieu of accepting settlement by cash or other means on the business day the checks are presented to the paying bank. Checks presented after the paying bank's cut-off hour or on non-business days, but otherwise in accordance with this paragraph, are considered presented for same-day settlement on the next business day.

(3) Closed Paying Bank

There may be certain business days that are not banking days for the paying bank. Some paying banks may continue to settle for checks presented on these days (e.g., by opening their back office operations or by using an intercept processor). In other cases, a paying bank may be unable to settle for checks presented on a day it is closed. If the paying bank closes on a business day and checks are presented to the paying bank in accordance with paragraph (f)(1), the paying bank is accountable for the checks unless it settles for or returns the checks by the close of Fedwire on its next banking day. In addition, checks presented on a business day on which the paying bank is closed are considered received on the paying bank's next banking day for purposes of the U.C.C. midnight deadline (U.C.C. 4–301 and 4–302) and this regulation's expeditious return and notice of nonpayment provisions.

If the paying bank is closed on a business day voluntarily, the paying bank must pay interest compensation, as defined in § 229.2(oo), to the presenting bank for the value of the float associated with the check

from the day of the voluntary closing until the day of settlement. Interest compensation is not required in the case of an involuntary closing on a business day, such as a closing required by state law. In addition, if the paying bank is closed on a business day due to emergency conditions, settlement delays and interest compensation may be excused under § 229.39(e) or U.C.C. § 4–109(b).

Good faith. Under § 229.38(a), both presenting banks and paying banks are held to a standard of good faith, defined in § 229.2(nn) to mean honesty in fact and the observance of reasonable commercial standards of fair dealing. For example, designating a presentment location or changing presentment locations for the primary purpose of discouraging banks from presenting checks for same-day settlement might not be considered good faith on the part of the paying bank. Similarly, presenting a large volume of checks without prior notice could be viewed as not meeting reasonable commercial standards of fair dealing and therefore may not constitute presentment in good faith. In addition, if banks, in the general course of business, regularly agree to certain practices related to same-day settlement, it might not be considered consistent with reasonable commercial standards of fair dealing, and therefore might not be considered good faith, for a bank to refuse to agree to those practices if agreeing would not cause it harm.

U.C.C. sections affected. This paragraph directly affects the following provisions of the U.C.C. and may affect other sections or provisions:

1. Section 4–204(b)(1), in that a presenting bank may not send a check for same-day settlement directly to the paying bank, if the paying bank designates a different location in accordance with paragraph (f)(1).

2. Section 4–213(a), in that the medium of settlement for checks presented under this paragraph is limited to a credit to an account at a Federal Reserve Bank and that, for checks presented after the deadline for same-day settlement and before the paying bank's cut-off hour, the presenting bank may require settlement on the next business day in accordance with this paragraph rather than accept settlement on the business day of presentment by cash.

3. Section 4–301(a), in that, to preserve the ability to exercise deferred posting, the time limit specified in that section for settlement or return by a paying bank on the banking day a check is received is superseded by the requirement to settle for checks presented under this paragraph by the close of Fedwire.

4. Section 4–302(a), in that, to avoid accountability, the time limit specified in that section for settlement or return by a paying bank on the banking day a check is received is superseded by the requirement to settle for checks presented under this paragraph by the close of Fedwire.

12. The Commentary to § 229.37 is amended by adding two new paragraphs after paragraph f. and before the undesignated paragraph as follows:

Section 229.37 Variations by Agreement

* * * * *

g. A presenting bank may agree with a paying back to present checks for same-day settlement at a location that is not in the check processing region consistent with the routing number on the checks. (See § 229.36(f)(1)(i).)

h. A presenting bank may agree with a paying bank to present checks for same-day settlement by a deadline earlier or later than 8 a.m. (See § 229.36(f)(1)(ii).)

* * * * *

13. The Commentary to § 229.38 is amended by revising the last sentence of paragraph (a) as follows:

Section 229.38 Liability

(a) *Standard of care; liability; measure of damages.* * * * The standard of care is similar to the standard imposed by U.S.C. §§ 1–203 and 4–103(a) and includes a duty to act in good faith, as defined in § 229.2(nn) of this regulation.

* * * * *

14. The Commentary to § 229.39 is amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) as follows:

Section 229.39 Insolvency of Bank

* * * * *

(d) *Preference against presenting bank.* This paragraph gives a paying bank a preferred claim against a closed presenting bank in the event that the presenting bank breaches an amount or encoding warranty as provided in § 229.34(c) (1) or (3) and does not reimburse the paying bank for adjustments for a settlement made by the paying bank in excess of the value of the checks presented. This preference is intended to have the effect of a perfected security interest and is intended to put the paying bank in the position of a secured creditor for purposes of the receivership provisions of the Federal Deposit Insurance Act and similar provisions of state law.

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 6, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92–24689 Filed 10–13–92; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 91–AGL–17]

Modification of Transition Area and Control Zone; Mitchell, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the existing Mitchell, South Dakota transition area and control zone by updating the geographic position of the Mitchell Municipal Airport, Mitchell, South Dakota and correcting the Mitchell VOR/DME radial from 300 to 301. This action also increases the lengths of the northwest and southeast control zone extensions to accommodate existing standard instrument approach procedures (SIAPs) to Mitchell Municipal Airport. The intended effect of these actions is to ensure segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, June 9, 1992, the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the transition area and control zone at Mitchell Municipal Airport, Mitchell, South Dakota (57 FR 24413).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. The coordinates in the proposal were North American Datum 27; however, these coordinates have been updated to North American Datum 83. Transition areas are published in § 71.181 and control zones are published in § 71.171 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The transition area and control zone listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the transition area and control zone at Mitchell Municipal Airport, Mitchell, South Dakota to update the geographic position of the Mitchell Municipal Airport, correct the Mitchell VOR/DME radial from 300 to 301, and increase the lengths of the northwest and southeast control zone extensions to accomodate existing SIAPs to Mitchell Municipal Airport.

The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined area which will enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference, Transition areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., P. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [AMENDED]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.171 Designation

* * * * *

AGL SD CZ Mitchell, SD [Revised]
Mitchell Municipal Airport, Mitchell, SD
(lat. 43° 46' 29" N., long. 98° 02' 19" W.)
Mitchell VOR (MHE)
(lat. 43° 46' 37" N., long. 98° 02' 15" W.)

Within a 4.2 nautical mile radius of Mitchell Municipal Airport and within 2.4 nautical miles each side of the Mitchell VOR/DME 149° radial, extending from the 4.2 nautical mile radius zone to 7 nautical miles southeast of the VOR/DME; and within 2.4 nautical miles each side of the Mitchell VOR/DME 301° radial, extending from the 4.2 nautical mile radius zone to 7 nautical miles northwest of the VOR/DME. This control zone is effective during the specific dates and times published in the Airport/Facility Directory.

* * * * *

Section 71.181 Designation

* * * * *

AGL SD TA Mitchell, SD [Revised]
Mitchell Municipal Airport, Mitchell, SD
(lat. 43° 46' 29" N., long. 98° 02' 19" W.)
Mitchell VOR (MHE)
(lat. 43°46'37" N., long. 98°02'15" W.)

That airspace extending upward from 700 feet above the surface within a 7.4 nautical mile radius of Mitchell Municipal Airport, and that airspace extending upward from 1,200 feet above the surface within 4 nautical miles southwest and 8 nautical miles northeast of the Mitchell VOR/DME to 16 nautical miles southeast of the VOR/DME; and within 4 nautical miles northeast and 8 nautical miles southwest of the Mitchell VOR/DME 301° radial, extending from the VOR/DME to 16 nautical miles northwest of the VOR/DME; and that airspace extending upward from 1,200 feet above the surface within 4 nautical miles southwest and 8 nautical miles northeast of the Mitchell VOR/DME, 149° radial, extending from the VOR/DME to 16 nautical miles southeast of the VOR/DME; and within 4 nautical miles northeast and 8 nautical miles southwest of the Mitchell VOR/DME 301° radial, extending from the VOR/DME to 16 nautical miles northwest of the VOR/DME; and that airspace southwest of Mitchell within the area bounded on the east by V–159, on the south by V–148 and Nebraska/South Dakota state line, on the west by a line from lat. 43° 00' 00" N., long. 99° 00' 01" W.; to lat. 44° 00' 00" N., long. 99° 43' 01" W.; and on the north by the Pierre, SD, 1,200 foot Transition Area and V–120.

* * * * *

Issued in Des Plaines, Illinois, on October 1, 1992.

Harold G. Hale,

Acting Manager, Air Traffic Division.

[FR Doc. 92–24892 Filed 10–13–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ANM–3]

Alteration of Jet Routes; OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name and identification of three VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) within the legal descriptions of five jet routes located in Oregon. A navigational aid (NAVAID) with the same name as the airport should generally be located on the airport. This action changes the name, where necessary, of the NAVAIDs that are not located on the airport with which they are associated.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

History

On July 6, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to change the name and identification of three VORTACs within the legal descriptions of five jet routes located in Oregon (57 FR 29686). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Jet Routes are published in § 75.100 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The jet routes listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the legal descriptions of J–1, J–126, J–143, J–159, and J–501 by renaming three VORTACs located in the State of Oregon: Medford to Rogue Valley, Redmond to Deschutes, and The Dalles to Klickitat. A NAVAID with the same name as the airport should be located on the airport. This action changes the name, where necessary, of the NAVAIDs that are not located on the airport with which they are associated.

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

is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.607 Jet Routes

* * * * *

J–1 [Revised]

From the INT of the United States/Mexican Border with the direct course between the Mission Bay, CA, VORTAC and the Tijuana, Mexico, VOR, via Mission Bay; Oceanside, CA; Los Angeles, CA; Fillmore, CA; Avenal, CA; Oakland CA; Red Bluff, CA; Rogue Valley, OR; Battle Ground, WA; to Seattle, WA.

* * * * *

J–126 [Revised]

From Los Angeles, CA, via San Marcus, CA; Salinas, CA; Sacramento, CA; Red Bluff, CA; Rogue Valley, OR; Eugene, OR; Newberg, OR; Olympia, WA; to Vancouver, BC, Canada. That portion outside the United States is excluded.

* * * * *

J–143 [Revised]

From Point Reyes, CA, via Mendocino, CA; Roseburg, OR; Eugene, OR; Klickitat, OR; to Spokane, WA.

* * * * *

J–159 [Revised]

From Battle Ground, WA; to Deschutes, OR.

* * * * *

J–501 [Revised]

From San Marcus, CA, via Big Sur, CA; Point Reyes, CA, via Rogue Valley, OR; Hoquiam, WA; INT Hoquiam 354° and Tatoosh, WA, 162° radials; Tatoosh; Cape Scott, BC, Canada, RBN; Sandspit, BC, Canada; Biorka Island, AK; Yakutat, AK; Johnstone Point, AK; Anchorage, AK; Sparrevohn, AK; Bethel, AK; to the INT of the Bethel 258° radial and the Anchorage Oceanic CTA/FIR boundary, excluding the airspace within Canada.

* * * * *

Issued in Washington, DC, on October 6, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92–24906 Filed 10–13–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–ANM–2]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name and identification of four VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) listed in the legal descriptions of VOR Federal airways, Domestic low altitude reporting points, and Domestic high altitude reporting points located in Oregon and Idaho. A navigational aid (NAVAID) with the same name as the airport should be located on the airport. This action reflects the name changes, where necessary, of the NAVAID's that are not located on the airport with which they are associated.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

History

On July 6, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to change the name and identification of four VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) listed in the legal descriptions of VOR Federal airways, Domestic low altitude reporting points, and Domestic high altitude reporting points located in Oregon and Idaho (57 FR 29687). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. VOR Federal airways, Domestic low altitude reporting points, and Domestic high altitude reporting points are published in §§ 71.123, 71.203, and 71.207 respectively, of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways, domestic low altitude reporting points, and domestic high altitude reporting point listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations changes the name and identification, where necessary, of four VORTAC's listed in the legal descriptions of VOR Federal airways and reporting points in Oregon and Idaho. FAA Handbook 7400.2C states that a NAVAID with the same name as the airport should be located on the airport; therefore, the names of the NAVAID's associated with that airport that are not located on the airport surface or are not the primary NAVAID's located off the airport surface for that airport are changed accordingly.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Domestic high altitude reporting points, Domestic low altitude reporting points, Incorporation by reference, VOR Federal airways.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.123 Domestic VOR Federal Airways

* * * * *

V–23 [Revised]

From Mission Bay, CA; Oceanside, CA; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal Beach 287° and Los Angeles, CA 138° radials; Los Angeles; Gorman, CA; Shafter, CA; Clovis, CA; 53 miles, 6 miles wide, Linden, CA; Sacramento, CA; INT Sacramento 346° and Red Bluff, CA, 158° radials; Red Bluff; 58 miles, 95 MSL, Fort Jones, CA; Rogue Valley, OR; Eugene, OR; Battle Ground, WA; INT Battle Ground 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle; Paine, WA; Bellingham, WA; via INT Bellingham 290° radial to the United States/Canadian border.

* * * * *

V–25 [Revised]

From Mission Bay, CA, via Los Angeles, CA; INT Los Angeles 261° and Ventura, CA, 144° radials; 6 miles wide, Ventura; San Marcus, CA; Paso Robles, CA; Salinas, CA; INT Salinas 310° and Woodside, CA; 158° radials; Woodside; San Francisco, CA; INT San Francisco 304° and Point Reyes, CA, 161° radials; Point Reyes; INT Point Reyes 352° and Mendocino, CA, 147° radials; 28 miles, 24 miles, 85 MS, 18 miles, 75 MSL, Red Bluff, CA; 53 miles, 95 MSL, INT Red Bluff 015° and Klamath Falls, OR, 181° radials; 19 miles, 95 MSL, Klamath Falls; 21 miles, 77 miles, 90 MSL, Deschutes, OR; Klickitat, OR; Yakima, WA; Ellensburg, WA; Wenatchee, WA. The airspace below 2,000 feet MSL outside the United States and the airspace more than 3 miles NE of the airway centerline between Seal Beach and INT of Seal Beach 287° and Los Angeles 138° radials is excluded. The airspace within R–2511 and W–289 is excluded. The airspace within R–2519 more than 3 statute miles west of the airway centerline, and the airspace within R–2519 below 5,000 feet MSL is excluded. The portion outside the United States has no upper limit.

* * * * *

V–112 [Revised]

From Hoquiam, WA; INT Hoquiam 182° and Astoria, OR, 309° radials; Astoria; 44 miles, 15 miles, 6 miles wide, Battle Ground, WA; Klickitat, OR; INT of Klickitat 101° and Pendleton, OR; 254° radials; Pendleton; 53 miles, 28 miles, 45 MSL, Spokane, WA; 47 miles, 105 MSL, Cranbrook, BC, Canada, excluding the portion within Canada.

* * * * *

V–121 [Revised]

From Fort Jones, CA, via, INT Fort Jones 340° and Rogue Valley, OR, 200° radials; Rogue Valley; INT Rogue Valley 352° and Roseburg, OR, 127° radials; Roseburg; North Bend, OR; Eugene, OR; Deschutes, OR; Kimberly, OR; Baker, OR; Donnelly, ID; Salmon, ID; to Dillon, MT.

V–122 [Revised]

From Crescent City, CA; Rogue Valley, OR; 22 miles, 75 MSL, INT Rogue Valley 117° and Klamath Falls, OR, 282° radials; 6 miles, 75 MSL, Klamath Falls; 21 miles, 90 MSL, Lakeview, OR; to Rome, OR.

* * * * *

V–165 [Revised]

From Mission Bay, CA; INT Mission Bay 270° and Oceanside, CA, 177° radials; Oceanside; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal Beach 287° and Los Angeles, CA, 138° radials; Los Angeles; INT Los Angeles 357° and Lake Hughes, CA, 154° radials; Lake Hughes; INT Lake Hughes 344° and Shafter, CA, 137° radials; Shafter; Porterville, CA; INT Porterville 339° and Clovis, CA, 139° radials; Clovis; 68 miles, 50 miles, 131 MSL, Mustang, NV; 40 miles, 12 AGL, 7 miles, 115 MSL, 54 miles, 135 MSL, 81 miles, 12 AGL, Lakeview, OR; 5 miles, 72 miles, 90 MSL, Deschutes, OR; 16 miles, 19 miles, 95 MSL, 24 miles, 75 MSL, 12 miles, 65 MSL, Newberg, OR; 32 miles, 45 MSL, INT Newberg 355° and Olympia, WA, 195° radials; Olympia; INT Olympia 010° and Seattle, WA, 249° radials; Seattle.

* * * * *

V–182 [Revised]

From North Bend, OR, via Newport, OR; Newberg, OR; INT Newberg 069° and Battle Ground, WA 196° radials; Battle Ground; Klickitat, OR; Baker, OR; INT of Baker 345° and Nez Perce, ID, 220° radials; Nez Perce.

* * * * *

V–187 [Revised]

From Socorro, NM, via INT Socorro 015° and Albuquerque, NM, 160° radials; Albuquerque; Farmington, NM; 50 miles, 62 miles, 115 MSL, Grand Junction, CO; 75 miles, 50 miles, 112 MSL, Rock Springs, WY; 20 miles, 37 miles, 95 MSL, INT Rock Springs 026° and Riverton, WY, 180° radials; Riverton; Boysen Reservoir, WY; 9 miles, 78 miles, 105 MSL, Billings, MT; INT Billings 317° and Great Falls, MT, 122° radials; Great Falls; Missoula, MT; Nez Perce, ID; Pasco, WA; INT Pasco 321° and Ellensburg, WA, 107° radials; Ellensburg; INT Ellensburg 274° and McChord, WA, 096° radials; McChord; INT McChord 275° and Olympia, WA, 031° radials; Olympia; to Astoria, OR.

* * * * *

V–253 [Revised]

From Lucin, UT; 14 miles, 90 MSL, 19 miles, 105 MSL, Twin Falls, ID; Boise, ID; 42 miles, 99 MSL, Donnelly, ID; 11 miles, 99 MSL, 33 miles, 115 MSL, Nez Perce, ID; Pullman, WA; Spokane, WA.

* * * * *

V–269 [Revised]

From Ely, NV; 125 MSL, INT Ely 007° and Bonneville, UT, 272° radials; Wells, NV; Twin Falls, ID; Burley, ID; Pocatello, ID; Salmon, ID; Donnelly, ID; Wildhorse, OR; Deschutes, OR; INT Deschutes 281° and Eugene, OR, 069° radials; to Eugene.

* * * * *

V–287 [Revised]

From Fort Jones, CA, via INT Fort Jones 041° and Rogue Valley, OR, 157° radials; Rogue Valley; North Bend, OR; Newberg, OR; Battle Ground, WA; 20 miles, 51 miles, 45 MSL, Olympia, WA; INT Olympia 010° and Paine, WA, 254° radials; Paine; INT Paine 329° and Bellingham, WA, 191° radials; Bellingham; to Paine.

* * * * *

V–448 [Revised]

From Rogue Valley, OR, via Roseburg, OR; INT Roseburg 003° and Eugene, OR, 187° radials; Eugene; INT Eugene 030° and Battle Ground, WA, 180° radials; Battle Ground; Yakima, WA; Moses Lake, WA; Spokane, WA; 45 miles, 12 AGL, 21 miles, 75 MSL, 20 miles, 80 MSL, 59 miles, 12 AGL; to Kalispell, MT.

* * * * *

V–497 [Revised]

From Rome, OR, via Wildhorse, OR; Kimberly, OR; 49 miles, 65 MSL, Klickitat, OR; INT Klickitat 053° and Moses Lake, WA, 206° radials; Moses Lake; to Ephrata, WA.

* * * * *

V–520 [Revised]

From Battle Ground, WA, via INT Battle Ground 110° and Klickitat, OR, 255° radials; Klickitat; Pasco, WA; Walla Walla, WA; Nez Perce, ID; Salmon, ID; Dubois, ID; to Jackson, WY.

* * * * *

V–536 [Revised]

From North Bend, OR; INT North Bend 023° and Corvallis, OR, 235° radials; Corvallis; Deschutes, OR; 32 miles, 58 miles, 71 MSL, Pendleton, OR; Walla Walla, WA; Pullman, WA; 27 miles, 85 MSL, Mullan Pass, ID; 5 miles, 34 miles, 95 MSL, Kalispell, MT; 20 miles, 41 miles, 115 MSL, Great Falls, MT. From Sheridan, WY; Gillette, WY; New Castle, WY; to Rapid City, SD.

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Section 71.203 Domestic Low Altitude Reporting Points

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Medford, OR [Removed; see Rogue Valley, OR]

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Rogue Valley, OR [New]

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The Dalles, OR [Removed; see Klickitat, OR]

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Klickitat, OR [New]

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Redmond, OR [Removed; see Deschutes, OR]

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Deschutes, OR [New]

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Section 71.207 Domestic High Altitude Reporting Points

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Medford, OR [Removed; see Rogue Valley, OR]

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Rogue Valley, OR [New]

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Issued in Washington, DC, on October 5, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92-24907 Filed 10-13-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 92-ASO-1]

Amend Controlling Agency for Restricted Areas R-5306A, R-5306C, R-5306D, R-5306E, Cherry Point, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of the controlling agency for Restricted Areas R-5306A, R-5306C, R-5306D, and R-5306E Cherry Point, NC, to Maring Corps Air Station (MCAS) Cherry Point Approach Control since the restricted airspace is located entirely within the airspace delegated to MCAS Cherry Point Approach Control.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202 267-7686.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the controlling agency for Restricted Areas R-5306A, R-5306C, R-5306D, R-5306E located in North Carolina to reflect the primary controlling agency for the area. This is only an administrative change and does not affect the dimensions of, or the daily activities within, the area. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.53 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.8 dated November 1, 1991.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.53 [Amended]

2. § 73.53 is amended as follows:

R-5306A, R-5306C, R-5306D, R-5306E Cherry Point, NC [Amended]

By removing the present Controlling Agency and substituting the following:

Controlling agency. Marine Corps Air Station Cherry Point Approach Control.

Issued in Washington, DC, on October 6, 1992.

Harold W. Becker.

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92-24904 Filed 10-13-92; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL AVIATION ADMINISTRATION

14 CFR Part 73

[Airspace Docket No. 92-AWP-12]

Name Change to Restricted Areas Using Agency; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of the using agency for Restricted Areas R-2505, R-2506, R-2508 and R-2524 in California. Currently, the Naval Weapons Center, China Lake, CA, is the designated using agency for these restricted areas. As a result of a reorganization within the United States Navy, that designation is no longer valid. This action is an editorial change only, and does not affect the designated boundaries, altitudes, times of use, or activities conducted in these restricted areas.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9361.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the name of the designated using agency for Restricted Areas R-2505, R-2506, R-2508 and R-2524 in California. The Naval Weapons Center, China Lake, CA, is currently the designated using agency for these restricted areas. As part of a United States Navy action to consolidate Navy research, development, test and evaluation, engineering, and fleet support activities, a Naval Air Warfare Center has been established in Washington, DC. This center is organized into two operating divisions: The Aircraft Division on the east coast and the Weapons Division on the west coast. As a result of this consolidation, the Naval Weapons Center has become a component of the Naval Air Warfare Center Weapons Division and no longer exists as a single corporate entity. Since the above changes are editorial in nature and do not affect the designated boundaries, altitudes, times of use, or activities conducted within the restricted areas, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.25 of part 73 of the Federal Aviation Regulations was republished in FAA Handbook 7400.8 effective November 1, 1991.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major

rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for 14 CFR part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; 1522; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.25 [Amended]

2. Section 73.25 is amended as follows:

R–2505 China Lake, CA; R–2506 China Lake South, CA; R–2508 Complex, CA; and R–2524 Trona, CA [Amended]

By removing the current using agency and substituting the following:

Using agency. U.S. Navy, Naval Air Warfare Center Weapons Division, China Lake, CA.

Issued in Washington, DC, on October 2, 1992.

Harold W. Becker,

Manager, Airspace–Rules and Aeronautical Information Division.

[FR Doc. 92–24905 Filed 10–13–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 92–AWP–11]

Name Changes to Restricted Area Using Agencies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the names of using agencies for certain restricted areas located in California and Arizona. These changes are required to reflect administrative organizational name changes. There are no changes to the boundaries, altitudes, times of use, or activities conducted within the affected restricted areas.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9361.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations updates the names of organizations assigned as using agencies for certain restricted areas. These changes are required due to an administrative renaming of organizations and/or reorganization of agencies responsible for operations within the affected restricted areas. The affected restricted areas are: R–2301E Ajo East, AZ; R–2301W Ajo West, AZ; R–2304 Gila Bend, AZ; R–2305 Gila Bend, AZ; R–2309 Yuma, AZ; R–2312 Fort Huachuca, AZ; and R–2512 Holtsville, CA. Since the above changes are editorial in nature and do not affect the designated boundaries, altitudes, times of use, or activities conducted within the restricted areas, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Sections 73.23 and 73.25 of part 73 of the Federal Aviation Regulations were republished in FAA Handbook 7400.8 effective November 1, 1991.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for 14 CFR part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; 1522; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.23 [Amended]

2. § 73.23 is amended as follows:

R–2301E Ajo East, AZ; R–2301W Ajo West, AZ; R–2304 Gila Bend, AZ and R–2305 Gila Bend, AZ [Amended]

By removing the current using agencies and substituting the following:

Using agency. U.S. Air Force, 58th Fighter Wing, Luke AFB, AZ.

R–2309 Yuma, AZ, and R–2312 Fort Huachuca, AZ [Amended]

By removing the current using agencies and substituting the following:

Using agency. U.S. Air Force, Southwest Air Defense Sector/DOS, March AFB, CA.

§ 73.25 [Amended]

3. Section 73.25 is amended as follows:

R–2512 Holtsville, CA [Amended]

By removing the current using agency and substituting the following:

Using agency. U.S. Navy, Fleet Area Control and Surveillance Facility, San Diego, CA.

Issued in Washington, DC, on October 2, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92–24908 Filed 10–13–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 203 and 204

[Docket No. R–92–1616; FR–3279–I–01]

Mortgage Insurance Premiums—15-year Mortgages

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule provides for a reduced premium applicable to 15-year FHA-insured mortgages that are liabilities of the Mutual Mortgage Insurance Fund. The purposes of the rule are to provide for a more equitable premium structure for these lower risk mortgages, and to achieve the operational goals set out in section 2105 of the Omnibus Budget Reconciliation Act of 1991.

DATES: Effective date: December 26, 1992.

Comment due date: December 14, 1992.

ADDRESSES: Interested persons may submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 7th 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. Facsimile (FAX) comments are *not* acceptable.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone: voice, (202) 708–3046, TDD (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 2103 of the Omnibus Budget Reconciliation Act of 1991 (OBRA) establishes a new risk-based mortgage insurance premium (MIP) structure applicable to mortgages insured as obligations of the Mutual Mortgage Insurance Fund (MMIF). The new MIP requirements for Fiscal Year 1991 became effective for mortgages executed on or after July 1, 1991, the effective date of the implementing interim rule (56 FR 24622, published May 30, 1991). Section 2103 mandated a fixed MIP level (both in terms of up-front MIP collected upon mortgage origination and annual MIP) for all MMIP mortgages, unlike previous statutory MIP requirements for MMIF mortgages, which provided the Secretary with discretion in setting the MIP level for various types of mortgages.

Because of the statutory mandate, HUD did not continue its prior practice of establishing the MIP for 15-year mortgages at a lower level than the MIP for 30-year mortgages. The May 30, 1991 interim rule set the MIP at the level provided in section 2103 of OBRA, with no distinction based on length of term. The final rule published on April 24, 1992 (57 FR 15208) made no changes in this regard.

A different provision in OBRA, section 2105, amended the National Housing Act to provide HUD with a method of "adjusting" the MIP levels otherwise mandated by OBRA. That method is set forth in a new section 205(h) of the National Housing Act, which states that if, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals (listed in the next paragraph) the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 2103(b) of the Omnibus Budget Reconciliation Act of 1990. Upon determining that a premium change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

The operational goals referred to in the preceding paragraph shall be—

(A) maintaining an adequate capital ratio;

(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit;

(C) minimizing the risk to the Fund and to homeowners from homeowner default; and

(D) avoiding adverse selection. [12 U.S.C. 1711]

On September 25, 1992, the Department by letter notified the Congress of this proposal to change the premium chargeable on mortgages with terms of 15 years or less. The 90-day period referred to in section 203(h) expires on December 26, 1992, the date this rule is to take effect.

The Department's determination that the Mutual Mortgage Insurance (MMI) Fund is not meeting the operational goals set forth in section 205(h)(2) of the National Housing Act was made pursuant to the independent actuarial study of the MMI Fund by the firm of Price Waterhouse dated June 6, 1990. This study predated the enactment of section 205(g), and thus is not literally a study required by that section. However, HUD has concluded that the intent of section 205(h) has been satisfied because it has received a written analysis from Price Waterhouse dated January 28, 1991 that specifically addresses the operational goals in section 205(h)(2) within the context of the premium structure for 15-year mortgages and the previous findings of the June 6, 1990 study.

In that analysis, Price Waterhouse referred to its previous finding that the MMI Fund's 15-year mortgages have claim rates that are historically lower than those of 30-year mortgages. Therefore, the premiums established in OBRA overprice the insurance for 15-year mortgages, making it unlikely that FHA will maintain this low-risk business.

Price Waterhouse concluded, and the Department agrees, that the loss of 15-year mortgages from the MMI Fund would impede HUD's ability to achieve the operational goals stated in subsections 205(h)(2)(A), (B), and (D). Specifically, the loss of this business (1) will preclude its contribution in building and maintaining the capital ratio of the Fund; (2) will reduce the choices available to low-downpayment and first-time homebuyers, thereby restricting their access to mortgage credit; and (3) by overpricing the insurance, will result in the loss of lower risk mortgages from the Fund and will increase adverse selection by higher risk borrowers.

In determining the appropriate adjustments to the premiums established in OBRA, the Department noted that like its 30-year loans, 15-year loans in the MMI Fund have claim rates that rise significantly for higher loan-to-value (LTV) categories. For this reason, the Department decided that the appropriate insurance premium for these loans would be one that was risk-based by LTV. Had the Department chosen instead to adopt a reduced single premium structure for 15-year mortgages (such as the 2.4 percent one-time premium that was in effect before OBRA), the Fund would not eliminate the risk of adverse selection by borrowers seeking high LTV 15-year loans. Adoption of a reduced single premium structure would not minimize the risk to the Fund from homeowner default and might require a reassessment of the Fund's operational goals by the Department on this issue in the future. Thus, the Department concluded that the best way to meet the operational goals of the Fund is to adopt a reduced premium structure for 15-year mortgages that is risk-based.

HUD considered whether section 205(h) is appropriate authority for a reduction, rather than an increase, in the MIP level set by statute. HUD notes that the statutory authority is to "adjust" MIP, rather than to "increase" it. There is no explanation in the legislative

history of the Cranston-Gonzalez National Affordable Housing Act (NAHA) of the intended meaning of the term "adjust", nor any explanation of the purpose of the authority to adjust beyond a reference to the operational goals of the MMIF [1] HUD has therefore relied upon commonly understood meanings of the term "adjust" and has concluded that a decrease in MIP that contributes to the operational goals of the MMIF is included in the statutory authority.

This interim rule provides for the pricing of the mortgage insurance premium on 15- (or fewer) year mortgages insured under the MMIF at a level that reflects more accurately the risk associated with these mortgages, as compared to 30-year mortgages. Mortgages with longer terms (e.g., 20-year or 25-year mortgages) will not be affected. The adjusted MIP will apply only to mortgages executed on or after the effective date of this rule, which is December 26, 1992.

The rule provides for a new 24 CFR 203.285, applicable to premium payments for mortgages of 15 (or fewer) years duration insured under the MMIF. A technical revision is made in present 25 CFR 203.284 to exclude these shorter term mortgages from that section's premium provisions.

Under this rule, an up-front premium of 2 percent will be charged for 15- (or fewer) year mortgages, with no annual premium for mortgages with a loan-to-value ratio (LTV) of less than 90 percent, annual premium of .25 percent for the first four years of the mortgage term for loans with an LTV between 90 and 95 percent, and an annual premium of .25 percent for the first eight years of the mortgage term for loans with an LTV above 95 percent.

This modified premium structure for this historically less risky class of mortgages will enable mortgagors to build equity more quickly, which also will contribute to these mortgages' involving less risk for the insurance fund. The Department has examined several different combinations of up-front premiums and annual-premium payout terms before concluding that the above-stated option was the most balanced and appropriate to achieving the goal of more accurately reflecting, for shorter-term mortgages, a premium consonant with claim rates for these mortgages.

Unlike the statutory premium rates for longer-term mortgages provided for in OBRA, the premium structure for 15-year mortgages provided for in this rule will not be phased in between now and 1994. Instead, the structure provided in § 203.285 will be effective on and after December 26, 1992, the effective date of this rule, and will not be altered except, possibly, in response to public comment on this rule, or unless the Department, in a possible future rulemaking procedure under section 2105 of OBRA, adjusts the rate to reflect new actuarial data.

HUD's final MIP rule, published on April 24, 1992, provided special premium treatment for streamline refinancing mortgages by applying only a one-time MIP, rather than a risk-based MIP, if the original mortgage was executed before July 1, 1991. No distinction was made in that rule between 15-year mortgages and longer-term mortgages in establishing the amount of the one-time MIP for refinancing transactions. In conjunction with this interim rule, however, the Department is introducing a differential in one-time MIP amounts for streamline refinancings of such mortgages executed before July 1, 1991, based on the length of the mortgage term. This is being carried out pursuant to separate statutory authority—section 223(a)(7) of the National Housing Act—not the section 203(h) authority upon which this rule is based. No revision in HUD regulations is necessary to accomplish this change for these refinance mortgages since the specific amount of the one-time MIP for these mortgages is not set out in the Code of Federal Regulations. Instead, 24 CFR 203.281(b) provides that the FHA Commissioner shall determine the premium in accordance with sound financial and actuarial practice, "taking into account the mortgage term" and other factors. The Commissioner has determined that, effective on December 26, 1992, the one-time MIP applicable to streamline refinance mortgages with 15- (or fewer) year terms shall be 2.4% of the principal amount of the mortgage. For other streamline refinance mortgages, the one-time MIP remains at 3.8% as previously announced. A Mortgagee Letter will be issued in the near future to this effect.

It should be noted that with respect to refinancings where the original mortgage was executed on or after July 1, 1991, the premium provisions set forth in this rule will apply where the refinancing mortgage is for a term of 15 or fewer years.

Other Matters

Interim Rulemaking.

The Department finds that there is good cause to make this rule effective at the earliest feasible date, which is 90 days following HUD's notification to the Congress under section 2105 of OBRA, without prior consideration of the public comments, as usually is required under 24 CFR part 10, HUD's "rule on rules." This rule relieves a regulatory burden on based on mortgagors seeking to participate in the insured mortgage program, and is expected to contribute to the solvency of the Mutual Mortgage Insurance Fund. It is in the public interest to provide for the easing of the costs and restrictions applicable to those mortgages at the earliest possible time. However, as required by the statute authorizing adjustments in MIP payments, this rule will not take effect until December 26, 1992. (The Department notified the Congress of its intention to effect this change on September 25, 1992.)

Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not, as defined by that order, have an annual effect on the economy of $100 million or more. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility

In approving this rule for publication, the Secretary has certified, in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), that this rule does not have a significant economic impact on a substantial number of small entities. The rule revises the premium structure for single family FHA mortgage insurance and affords a more favorable premium payment for shorter-term mortgages. Although the changes made may be significant for some homebuyers, they are neither burdensome on homebuyers or on mortgage lenders. Furthermore, participation in the program and selection of the term of the mortgage, are voluntary activities, and the premium payment reduction for shorter-term mortgages provided for in this rule does not have the effect of increasing regulatory burdens on any class of persons.

[1] Although section 205(h) was added by OBRA, identical language is contained in the Cranston-Gonzalez National Affordable Housing Act (NAHA). The OBRA amendment took effect pursuant to section 351 of NAHA because the President signed OBRA before he signed NAHA. Both House and Senate bills contained similar language on this point. The Senate bill said that the Secretary may by regulation "implement adjustments" to MIP necessary to achieve stated "principles of operation" for the MMIF. The House bill permitted the Secretary by regulation to "implement any adjustments" to MIP needed to meet stated "operational goals." The Senate bill "principles of operation" and the House bill "operational goals" were similar to the "operational goals" enacted into law.

Environmental Policy

A Finding of No Significant Impact with a respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2) of the National Environment 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.

Semiannual Agenda of Rules

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

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 substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. The rule is limited to revising certain specific premium payment requirements in connection with FHA mortgage insurance. The revisions are mandated by statute and do not alter the established roles of 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 does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves requirements for payment of premiums on FHA insured mortgages. The changes from the existing premium structure reflect the Department's effort to ensure the financial soundness of the Mutual Mortgage Insurance Fund while, to the maximum extent feasible, continuing FHA program affordability for first time homebuyers.

The Catalog of Federal Domestic Assistance program numbers are 14.117, 14.112, 14.121, 14.122, 14.132, and 14.133.

List of Subjects

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians: lands Loan programs: housing and community development, Mortgage insurance, Reporting and record keeping requirements, Solar energy.

24 CFR Part 204

Mortgage insurance.

Accordingly, 24 CFR parts 203 and 204 are amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1715b; 42 U.S.C. 3535(d). Subpart C is also issued under 12 U.S.C. 1715u.

2. In § 203.259a, paragraphs (b) and (c) are revised to read as follows:

§ 203.259a Scope.

* * * * *

(b) Except as provided in § 203.284(h) or § 203.285(d), the Commissioner shall charge an up-front MIP pursuant to § 203.284 for mortgages that are executed on or after July 1, 1991 that are obligations of the Mutual Mortgage Insurance Fund.

(c) The periodic MIP provisions of §§ 203.260 through 203.268 shall not apply to mortgages referred to in paragraph (a) of this section, nor shall they apply to mortgages to which the provisions of § 203.284 or § 203.285 apply.

3. The first sentence in paragraph (c) of § 203.270 is revised to read as follows:

§ 203.270 Open-end insurance charges.

* * * * *

(c) *Payment of charge for mortgages with one-time or up-front MIP.* In the case of a mortgage with a one-time or up-front MIP pursuant to § 203.280, § 203.284, or § 203.285 of this part, the insurance charge shall be in an amount equal to 1/2 percent per annum of the outstanding principal obligation of the open-end advance. * * *

* * * * *

4. Section 203.284 is amended by adding an undesignated initial paragraph, to read as follows:

§ 203.284 Calculation of up-front and annual MIP on or after July 1, 1991.

Except for insured mortgages with a term of 15 or fewer years executed on or after December 26, 1992, (see § 203.285 of this part), up-front and annual MIP will be calculated in accordance with this section.

* * * * *

5. A new § 203.285 is added, to read as follows:

§ 203.285 Fifteen-year mortgages: calculation of up-front and annual MIP on or after December 26, 1992.

(a) *Up Front.* Any mortgage for a term of 15 or fewer years executed on or after December 26, 1992 that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to a single up-front premium payment, established and collected by the Commissioner in an amount equal to 2.0 percent of the amount of the original insured principal obligation of the mortgage. Upon termination of insurance by voluntary agreement or upon payment in full of the principal obligation of the mortgage before the maturity date, the Commissioner shall refund all of the unearned premium charges paid on the mortgage pursuant to this paragraph (a).

(b) *Annual.* In addition to the premium under paragraph (a) of this section, the Commissioner shall establish and collect annual premium payments in amounts equal to the following percentages of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (a) of this section) for the following periods:

(1) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a) of this section) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), no annual premium will be charged.

(2) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a) of this section) that is greater than or equal to 90 percent of such value, but less than or equal to 95 percent of such value, an annual premium of .25 percent shall be collected for the first four years of the mortgage term.

(3) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a) of this section) that is greater than 95 percent of such value, an annual premium of .25 percent shall be collected for the first eight years of the mortgage term.

(c) *Applicability of certain provisions.* The provisions of §§ 203.261, 203.266, 203.267, 203.268, 203.280 and 203.282 are applicable to mortgages subject to premiums under this section. The provisions of paragraphs (d), (e), and (g) of § 203.284 also shall be applicable to mortgages subject to premiums under this section.

(d) *Exception for streamline refinance.* This section shall not apply to any mortgage insured pursuant to

§ 203.43(c) if the mortgage to be refinanced was executed before July 1, 1991 and the new mortgage is executed on or after December 26, 1992.

PART 204—COINSURANCE

6. The authority citation for 24 CFR Part 204 continues to read as follows:

Authority: 12 U.S.C. 1715z–9, 1715(b); 42 U.S.C. 3535(d).

7. Section 204.260 is revised to read as follows:

§ 204.260 Mortgage insurance premiums for coinsured mortgages.

The provisions of §§ 203.260 through 203.268, or the provisions of § 203.284 or § 203.285 (as appropriate), concerning mortgage insurance premiums with respect to mortgages insured under section 203(b) of the National Housing Act, apply to mortgages covering one- to four-family dwellings to be insured under this part.

8. Section 204.276 is revised to read as follows:

§ 204.276 Up-front premiums.

The full amount of all up-front premiums collected pursuant to the provisions of 24 CFR 203.284 and 203.285 on mortgages insured under this part shall be credited to the Mutual Mortgage Insurance Fund. No portion of the amount shall be credited to the Annual Coinsurance Reserve established by § 204.270.

Dated: September 25, 1992.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 92–24832 Filed 10–13–92; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AD68

Reservists Education; Veterans' Benefits and Services Act of 1988 and the Montgomery GI Bill—Selected Reserve

AGENCY: Department of Defense, Department of Transportation (Coast Guard) and Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Veterans' Benefits and Services Act of 1988 contains a provision which changes the method of measuring laboratory sessions for the purpose of paying educational benefits. the definition of standard class session is also changed. The pertinent regulation governing the Montgomery GI Bill—Selected Reserve is brought into agreement with the law.

EFFECTIVE DATE: May 20, 1988.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2092.

SUPPLEMENTARY INFORMATION: 38 CFR 21.7672 is amended. This amendment is required by section 321 of the Veterans' Benefits and Service Act of 1988 (Pub. L. 100–322). That section provides a new definition of a standard class session. The regulation affected by the new provision of law is amended to agree with it.

This law contains numerous provisions which have required changes to VA regulations. This amended regulation is needed to implement the section of law which affects the Montgomery GI Bill—Selected Reserve.

The Department of Veterans Affairs (VA), The Department of Defense and the Department of Transportation have determined that this amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs, the Secretary of Defense and the Secretary of Transportation have certified that this amended regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the amended regulation directly affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

VA, the Department of Defense, and the Department of Transportation find that good cause exists for making this amended regulation, like the section of the law it implements, retroactively effective on May 20, 1988. To achieve the maximum benefit of this legislation for the affected individuals, it is necessary to implement this provision of law as soon as possible. A delayed effective date could be contrary to statutory design; would complicate administration of this provision of law; and might result in denial of benefits to a reservist who is otherwise entitled to them.

VA, the Department of Defense and the Department of Transportation find that good cause exists for publishing this amended regulation without prior notice and opportunity for public comment. The amended regulation conforms directly with the provisions of law which were amended by Pub. L. 100–322. The agencies have no discretion in this matter. Consequently, public comment is unnecessary.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 12.609.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 27, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Approved: June 17, 1992.

Robert M. Alexander,

Lieutenant General, USAF, Deputy Assistant Secretary of Defense (Military Manpower & Personnel Policy).

Approved: August 24, 1992.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Chief, Office of Readiness and Reserve.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

For the reasons set out in the preamble, 38 CFR part 21, subpart L is amended as set forth below.

1. The authority citation for part 21, subpart L continues to read as follows:

Authority: 10 U.S.C. Ch. 106; 38 U.S.C. 501(a).

§ 21.7672 [Amended]

2. In § 21.7672 paragraph (c)(2) is revised and an authority citation is added to read as follows.

§ 21.7672 Measurement of courses not leading to a standard college degree.

* * * * *

(c) *Credit-hour measurement—alternate method.* * * *

(2) For enrollments and reenrollments which begin—

(i) Before May 20, 1988, the laboratory portions of the courses are measured on a minimum of 2 hours of attendance per week for each quarter or semester hour of credit, and

(ii) After May 19, 1988, the laboratory portions of the courses are measured on a minimum of 2 hours (or two 50-minute periods) of attendance per week for each quarter or semester hour of credit.

Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3688; Pub. L. 100-322.

[FR Doc. 92-24926 Filed 10-13-92; 8:45 am]

BILLING CODE 8320-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 101, Subchapter G

[FPMR Temp. Reg. G-56]

Federal Energy Management for Motor Vehicles

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation establishes guidance on policy, procedures, and reporting requirements for Federal agencies in the implementation of Executive Order 12759, dated April 17, 1991. This regulation will assist Federal agencies in developing plans to reduce their motor vehicle fuel consumption by 10 percent by 1995 when compared to fiscal year 1991, as required by the Executive order.

DATES: *Effective date:* October 14, 1992.

Expiration date: March 31, 1994.

Comments due on or before: November 30, 1992.

ADDRESSES: Comments should be addressed to: General Services Administration, Federal Supply Service (FBF), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Frisbee, Fleet Management Division (FBF), 703-305-6273.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-38

Government property management, Motor vehicles.

(Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR chapter 101, the following temporary regulation is added to the appendix at the end of subchapter G to read as follows:

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—AVIATION, TRANSPORTATION, AND MOTOR VEHICLES

Appendix to Subchapter G—Temporary Regulations

* * * * *

[FPMR Temp. Reg. G-56]

May 22, 1992.

Federal Energy Management for Motor Vehicles

1. *Purpose.* This regulation establishes policy, procedures, and reporting requirements for the implementation of section 10 of Executive Order 12759, Federal Energy Management, April 17, 1991.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register**.

3. *Expiration date.* This regulation expires on March 31, 1994, unless sooner superseded or canceled.

4. *Applicability.*

a. This regulation applies to all executive agencies (as defined in section 105 of title 5, United States Code) which operate 300 or more motor vehicles. Agencies which operate less than 300 vehicles are exempt from this temporary regulation, although they are encouraged to implement the fuel conservation methods listed herein.

b. This regulation shall apply to commercially-designed, Government-owned and -leased vehicles being operated in the 50 United States, the District of Columbia, and the Commonwealth of Puerto Rico. The reporting requirements of this regulation shall also apply to Government-owned, contractor-operated vehicles, since the contractors operate the vehicles at the expense of the Federal Government. However, the drivers of contractor-operated vehicles are not required to follow the operating procedures set forth in subpar. 8b, although they are encouraged to do so. This regulation shall not apply to special purpose vehicles as defined below. Law enforcement vehicles shall be included unless exempted because of mission requirements, as certified by the head of each agency.

5. *Definitions.* For purposes of this regulation:

a. *Alternative fuels* means methanol and M85, ethanol an E85, compressed natural gas (CNG), liquefied natural gas (LNG),liquefied petroleum gas (LPG), and electricity.

b. *Commercially-designed motor vehicle* means a motor vehicle procurable from regular production lines and available for use by Federal agencies.

c. *Government-leased vehicle* refers to a vehicle obtained by an executive agency by contract or other source for a period of 60 continuous days or more.

d. *Government-owned, contractor-operated vehicle* means a vehicle that is owned or leased by the Federal Government but used by a contractor under a cost reimbursement contract with a Federal agency.

e. *Government-owned vehicle* means a vehicle that is owned by an executive agency.

f. *Law enforcement vehicle* means any vehicle which is specifically approved in an agency's appropriation or authorization act for use in apprehension, pursuit, patrol, or protection, or is routinely used for other law enforcement activities such as surveillance. Typically, law enforcement vehicles should be covered by the current version of item 17 or 17A, Federal Standard Number 122, Automobiles. Leased vehicles should be equipped with at least the following components to qualify as a law enforcement vehicle: (1) For passenger automobiles, heavy duty electrical, cooling, and suspension systems and at least the next higher cubic inch displacement or more powerful engine, than is standard for the automobile concerned; and, (2) for light trucks, emergency warning lights should be displayed or the vehicle should be identified with marking, such as "police." Vehicles which have been seized by a Federal agency and are placed in Federal service for the purpose of performing law enforcement activities are considered law enforcement vehicles. This definition also includes vehicles which are unmarked and

certified by the head of the agency as essential for the safe and efficient performance of intelligence, counter-intelligence, protective, surveillance, or other law enforcement duties.

g. *Oxygenated gasolines* means blends of non-petroleum fuels and gasoline. The commonly available blending components are ethanol, ethyl tertiary butyl ether (ETBE), tertiary amyl methyl ether (TAME), and methyl tertiary butyl ether (MTBE). They are currently used by blenders (ethanol) and refiners (ETBE, TAME, and MTBE) to increase octane and extend gasoline supplies. These components are composed of hydrocarbons and oxygen, and thus serve an added purpose of reducing certain vehicle emissions, mainly carbon monoxide (CO). Oxygenated gasolines are a subset of reformulated gasolines. To qualify as a reformulated gasoline, a gasoline must meet the Environmental Protection Agency's (EPA) requirements as published in the Federal Register of September 10, 1991, 56 FR 46120. To be certified as reformulated (and also oxygenated), a gasoline must comply with certain formula requirements, including an oxygen content of at least 2.7 percent by weight. For a more detailed description of oxygenated gasolines and how they should be reported in an agency's Fuel Consumption Report, see the guidance provided in attachment A.

h. *Privately-owned vehicle* is a vehicle that is owned by an individual, but used when performing official Government business and for which reimbursement is obtained.

i. *Reportable fuels* for the purpose of achieving the 10 percent reduction requirement mandated by this regulation mean gasoline and diesel fuel and the gasoline portion of gasohol, reformulated gasoline and alternative fuels. However, agencies should continue to report CNG, LNG, LPG, and electricity consumption on the appropriate lines of the Department of Energy (DOE) Form 6200.

j. *Reportable vehicles* are those that fall into the following categories of motor vehicles: Sedans, station wagons, buses, carryalls, trucks, and truck tractors which operate on reportable fuels. Also included are all vehicles of the types named which use propane, methane, or a combination of these fuels with gasoline when these vehicles are integrated into the normal agency fleet operations. Excluded are special purpose vehicles and equipment (see k below), stationary equipment such as air compressors, etc.; electric and hybrid-powered electric vehicles; motorcycles; and military design vehicles described in 41 CFR 101–38.001–4.

k. *Special purpose vehicles* and *special purpose equipment* are defined as vehicles and equipment used and designed for specialized functions. For the purposes of this regulation, vehicles and equipment exempted by this definition include, but are not limited to: Ambulances, fire trucks, crash equipment, and other emergency vehicles, trucks with permanently mounted equipment (such as aerial ladders); motorcycles, construction and other types of equipment included in Federal Supply Class (FSC) 38; material handling equipment in FSC 39; and fire-fighting equipment in FSC 42.

6. *Policy.*

a. To comply with the provisions of Executive Order 12759, agencies shall develop and submit a plan to reduce petroleum-based fuel consumption by 10 percent between fiscal years 1991 and 1995. A comparison in annual fuel usage will be made between the fiscal year 1991 and fiscal year 1995.

b. Agencies should consider the use of alcohol-blended, or ETBE, TAME, and MTBE fuels where available competitively at fuel facilities participating in the Defense Fuel Supply Center (DFSC) credit card program. In addition, agencies shall ensure that all bulk storage tanks are filled with alcohol-blended or ETBE and MTBE fuels purchased through DFSC contracts when such fuel is available at prices equal to or less than the price of unleaded gasoline. The fuel purchased must meet conditions established by DFSC for purchasing such fuels, as outlined by the DOD Policy on Gasohol Acquisition, Handling, and Use.

c. Agencies shall consider the overall cost to the Government when developing their energy reduction plans.

d. Agencies shall explore the use of alternative fuels as well as methods of decreasing gasoline use and improving gas mileage when attempting to meet the reduction goal established by the President. Further instructions on the acquisition and use of alternative fuel vehicles is being provided in the DOE guidance on implementation of section 11 of the Executive order.

7. *General Services Administration (GSA) responsibilities.*

a. The guidance set forth in this subparagraph provides a life-cycle costing (LCC) formula which incorporates fuel costs into the bid/offer evaluation process. This formula will be used by GSA's Automotive Commodity Center as part of its bid/offer evaluation for the acquisition of passenger vehicles and light trucks up to 8,500 pounds Gross Vehicle Weight Rating. The formula recognizes, in addition to the bid/offer price, the anticipated cost of fuel over the vehicle's expected life

$$E = P + (M/N)(G/MPG) \times UPW^*$$

where:

E = Evaluation price
P = Bid/offer price
M = Expected miles of government use per vehicle
N = Years of vehicle life expectancy
G = Price per gallon of gasoline
MPG = EPA rated miles per gallon
UPW* = Modified uniform present worth (at 4.0% and n years)

Note: UPW* represents the modified uniform present worth, which is used to find the equivalent value at the present time of a future amount projected to change at specified rates over time, such as energy costs (from Handbook 135, "Life-Cycle Costing Manual for the Federal Energy Management Program"). The supplement to Handbook 135, called "Energy Prices and Discount Factors for LCC Analysis" is updated every October. This supplemental publication contains the values to be used for the UPW* variable, and was prepared for DOE's Federal Energy Management Program. Both publications were developed by the Department of Commerce, National Institute of Standards and Technology.

If an activity or company does not have access to these publications, the UPW* can be computed as follows:

$$UPW^* = \frac{1-(1+x)^{-n}}{x}$$

Where x = 4.0% and n = years of vehicle life expectancy. If the life expectancy is calculated in months, then x = 4.0%/12 (.040/12 = .0033333).

b. As currently required by FPMR 101–38.101–2(a), agencies shall acquire fuel efficient vehicles to meet their mission requirements. These vehicles will be of the minimum size, weight, and options necessary to meet the mission requirements of the agency.

c. GSA will provide data concerning mileage operated and miles per gallon for those vehicles in GSA's Interagency Fleet Management System (IFMS). This data will enable agencies to calculate the fuel consumption for their IFMS-assigned and -dispatched vehicles.

8. *Agency responsibilities.*

a. Each agency subject to this regulation shall develop a plan to achieve a 10 percent reduction in gasoline and/or diesel fuel by the end of fiscal year 1995 when compared with the amount of fuel consumed during fiscal year 1991. If an agency meets the 10 percent reduction goal prior to fiscal year 1995, the agency still must meet the goal in fiscal year 1995. The plan should

reflect the current operation and mission requirements and any known changes that will affect the consumption of motor vehicle fuel during the covered period. In developing the plan to achieve the target fuel reduction, an agency should consider incorporating changes in acquisition decisions, maintenance practices operating procedures, fuel switching (to alternative fuels or oxygenated gasolines), mission requirements, or any other action to reduce the use of reportable, petroleum-based fuels. Fuel consumption data for fiscal year 1991 should be submitted to the Federal Energy Management Program at the Department of Energy as part of the current submission for the Energy Conservation Performance Report (Office of Management and Budget Reports Control Number 1492–DOE–QU). The plan for achieving the 10 percent reduction shall be submitted by November 30, 1992. The mailing address is: Federal Energy Management Program, CE–44, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Information to be included in the plan is outlined in attachment B.

(1) Each agency shall submit by March 31, 1993, and on that date each year thereafter, an annual progress report on its efforts to reduce gasoline and diesel consumption for fiscal years 1992, 1993, 1994, and a final report for 1995. The report shall include the amount of gasoline and diesel fuel consumed during the base year (FY 91), the amount of such fuel consumed during the reporting year, any changes in mission or fleet size which affected fuel consumption, and a brief narrative of the steps taken to achieve the fuel reduction goal mandated by this temporary regulation.

(2) An agency which believes that it cannot meet the 10 percent fuel reduction goal shall indicate what reduction it believes is attainable and shall provide justification as to why it is unable to meet the 10 percent reduction target (e.g., law enforcement responsibilities, major changes in agency's mission or responsibilities).

b. Each agency will be responsible for ensuring that its Government motor vehicle drivers operate their vehicles in a fuel efficient manner. Each agency is responsible for the education of its vehicle operators. There are numerous basic steps that can be taken when operating a vehicle which will ensure improved fuel economy. Some of these steps include:

(1) Travel at reduced speeds. Fuel consumption increases significantly with speed.

(2) Avoid sudden bursts of speed, tailgating, and pumping the accelerator pedal while the vehicle is not in motion.

(3) Use routes with a minimum number of traffic signals and stop signs, if feasible. Plan ahead to avoid waiting for a traffic signal by gradually slowing prior to the signal. Avoid sudden stops to the extent practicable.

(4) Do not idle engine for long periods. The "break even" point for the idle time for most vehicles is approximately 1 minute.

(5) Eliminate weight unnecessary to the particular trip; empty trunk and storage compartments of excess tires, chains, tools, etc. to the extent practicable.

(6) Refuel vehicle during the early part of the day to minimize evaporative loss. Avoid over-filling the fuel tank to prevent spillage caused by fuel expansion.

(7) Use the air-conditioner sparingly, but operate at least 10 minutes each week throughout the year.

(8) Encourage two or more people to travel together.

(9) Travel during off-peak traffic times if possible.

(10) Use the most fuel efficient vehicle feasible for the job.

(11) Use fuel with the minimum octane rating recommended by the vehicle manufacturer which will not result in engine knock.

(12) Keep tires inflated to the maximum pressure recommended by the manufacturer. Maintain the differential recommended in the owner's manual, if any, between front and rear tires.

c. Each agency shall ensure the implementation of an effective preventive maintenance schedule as recommended by the manufacturer. The engine should be tuned in accordance with the manufacturer's latest specifications with special attention to maintaining clean air filters and adjusting wheel alignment to manufacturer's specifications. In addition, using a multi-grade, energy conserving oil also will help improve fuel mileage.

9. *Department of Energy responsibilities.* DOE will be available for technical assistance and guidance in the preparation of agency plans. Once the plans are developed, DOE will review them and will respond to agencies with suggested revisions as necessary. Innovative methods of fuel conservation will be compiled in a summary which DOE will provide to all reporting agencies. Any adaptations necessary in the reporting requirements of Federal Energy Conservation Performance Reports to coincide with the submission of energy reduction plans will be specified by DOE.

10. *Agency comments and assistance.* Comments or inquiries concerning the impact of this regulation should be submitted to the General Services Administration, Federal Supply Service (FBF), Washington, DC 20406, not later than November 30, 1992, for consideration and possible incorporation into a permanent regulation. Requests for specific information and guidance should be submitted to the same office.

Richard G. Austin,

Administrator of General Services.

Attachment A—Guidance for Reporting Consumption of Alternative Fuels in Vehicles on the Energy Conservation Performance Report

I. Types of Vehicles Required to Report

A. Agency-owned vehicles. Vehicles owned by an executive agency.

B. GSA-assigned and -dispatched vehicles. Vehicles owned or leased by the GSA Interagency Fleet Management System (IFMS) and assigned or dispatched to another agency for its use.

C. Government-leased vehicles. Vehicles obtained by an executive agency by contract or other source for a period of 60 continuous days or more.

D. Privately-owned vehicles. Vehicles that are owned by an individual, but used when performing official Government business and for which reimbursement is obtained.

Note: Fuel consumption for privately-owned vehicles (POV's) used for official purposes must be included in this report, just as it has been included in the Energy Conservation Performance Report currently being submitted to DOE. Agencies are encouraged to use their existing procedures to calculate this data. Use of alternative fuels and adherence to the operating procedures set forth in subpar. 8b are not required for POV's. Agencies are encouraged to make their vehicle operators aware of the driving techniques contained in this regulation. Implementation of these recommendations will result in reduced fuel consumption, as drivers will use these techniques whether driving for official or for private purposes.)

II. Reporting Consumption of Motor Fuels

Vehicle fuels are reported to DOE in thousand gallon units. The two fuel types which are targeted for reduction in section 10 of Executive Order 12759 are automotive gasoline and diesel fuel. In the Federal Energy Usage Report, DOE Form 6200, auto gas is reported on line 8 and diesel is reported on line 3.

Estimating Consumption Based on Mileage

In some cases, a consumption figure in gallons may not be available. It will then be necessary to estimate consumption based on the number of miles traveled. For privately-owned vehicles, mileage is the basis for compensation, so this data should be available from travel vouchers and claims for reimbursement. GSA will provide mileage information on vehicles obtained from the IFMS.

Attachment A

Agencies can calculate the amount of gasoline consumed in these vehicles by dividing the total mileage traveled by an average miles-per-gallon (MPG) figure. Each agency must determine an appropriate average MPG that best reflects the type of vehicle comprising its inventory of vehicles. Most agencies will find this figure to fall within the 21 MPG to 27 MPG range. Using privately owned vehicles as an example, an agency determines that its average MPG is 25 by conducting a survey or some other method. The agency would then calculate its consumption as follows:

Total POV Mileage, 750,000 divided by Average MPG 25 equals Total Consumption (gallons) 30,000

The total should then be added to the gasoline consumption for agency-owned, GSA-assigned and -dispatched, and commercially-leased vehicles and entered on line 8. This number should be reported in thousands of gallons (i.e., 30,000 gallons would be entered as 30.0).

Types of blended, reformulated, and alternative motor fuels.

Gasohol.
Oxygenate.
Methanol (M85).
Ethanol (E85).
Compressed natural gas (CNG).
Liquified natural gas (LNG).
Liquified propane gas (LPG).
Electricity.

Reporting fuel consumption

Agencies will receive credit for their use of reformulated, blended, and alternative fuels. In order to receive this credit, agencies must multiply the number of gallons of the particular fuel used by a factor which reduces that total by the amount of petroleum displaced by that particular fuel. This total is then added to the amount of gasoline used. The fuel consumption figure reported to DOE will be an aggregate of the total gallons of gasoline combined with that portion of reformulated, blended, and alternate fuels that consists of gasoline. The factors to use for each type of alternative fuel are:

Fuel type	Gallons consumed		Factor		Gallons reported
Gasohol	100	X	0.90	=	90
Oxygenate	100	X	0.89	=	89
Methanol (M85)	100	X	0.15	=	15
Ethanol (E85)	100	X	0.15	=	15
CNG	100	X	0.00	=	0
LNG	100	X	0.00	=	0
LPG	100	X	0.00	=	0
Electricity	Not applicable				

(See note below on CNG, LNG, LPG, and electricity reporting.)

For example, if an agency has consumed in the current fiscal year 20,000 gallons of gasoline, 10,000 gallons of gasohol, 5,000 gallons of oxygenate, and 10,000 gallons of methanol, the agency would determine its totals as follows:

Fuel type	Gallons consumed	Factor	Gallons reported
Gasoline	20,000	1.00	20,000
Gasohol	10,000	0.90	9,000
Oxygenate	5,000	0.89	4,450
Methanol (M85)	10,000	0.15	1,500
Total	45,000		34,950

The amount entered on line 8 of the Energy Usage Report would be 35.0. (The reporting unit for auto gas is thousands of gallons.)

Attachment A

Reporting CNG Consumption

The use of compressed natural gas totally displaces petroleum use in vehicles. Therefore, consumption of CNG is not reported on line 8 of the Energy Usage Report. CNG should be reported on line 14 under the category of "other" in billions of BTUs. The conversion rate for natural gas is 1,031 BTUs per cubic foot. As an example, an agency uses 5,000,000 cubic feet of natural gas in its vehicles. To convert to BTUs, multiply that figure by 1,031.

5,000,000 CF × 1,031 BTUs/CF = 5,155,000,000 BTUs

Divide by one billion to arrive at the correct reporting units (billions of BTUs)

5,155,000,000/1,000,000,000 = 5.155 BBTUs

After rounding to one decimal place, add this figure, 5.2, to any other CNG consumption from other sources and enter that result on line 14.

LPG and LNG will be reported in a similar fashion, using a conversion factor to obtain a number in BTU format.

Note: The extent to which the use of oxygenated gasoline reduces petroleum use depends on the type of oxygenates used, the amount used, and certain assumptions about the source of the feedstocks or energy used to produce the oxygenates. For MTBE, gasoline produced to meet the Clean Air Act of 1990 oxygenated gasoline requirements for CO reductions must contain 2.7 percent oxygen by weight or 15 percent MTBE by volume. One gallon of this fuel translates to .88 gallon of petroleum base gasoline. When ethanol is used to achieve the 2.7 percent oxygen requirement, 8 percent is needed. Using the assumption that .09 gallons of petroleum is required to produce one gallon of ethanol, one gallon of gasoline containing 10 percent ethanol is equivalent to .91 gallons of petroleum based gasoline.

Attachment B—Plan Information

1991 Fuel consumption:

1995 Fuel consumption goal:

Amount of reduction to achieve:

Agency plans should be written in narrative form. The plan may take any format the agency desires, but it should address, at a minimum, the following items:

A. Brief description of agency mission and possible changes in future.

B. Changes in mission requirements (e.g., expansion of EPA's Superfund responsibilities).

C. Energy coordinator and his/her role.

D. Fleet manager and his/her role.

E. Description of current fleet (i.e., passenger vehicles, law enforcement, etc.).

F. Sources of vehicles (agency-owned, commercially leased IFMS, POV).

G. Average amounts of mileage and types of use (e.g., off-road, on-base, etc.).

H. Conversion from miles to gallons.

I. Types of fuel used (e.g., diesel, ethanol, electricity, etc.).

J. Steps to be taken to reach reduction goal.

K. Maintenance practices.

L. Fuel switching to alternative fuels.

M. Changes in fleet size/makeup.

N. Changes in acquisition decisions.

O. Any concerns or problems that would prevent an agency from reaching its reduction goal.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

RIN 0970-AA80

45 CFR Parts 205, 250, 302, 304 and 307

Computerized Support Enforcement Systems, Family Assistance Management Information Systems, JOBS Automated Systems

AGENCY: Office of Child Support Enforcement (OCSE), ACF, HHS; Office of Family Assistance (OFA), ACF, HHS.

ACTION: Final rule.

SUMMARY: These final rules implement section 123 of the Family Support Act of 1988. Under section 123, Automated Tracking and Monitoring Systems Made Mandatory: States not having in effect on October 13, 1988 a statewide data processing and information retrieval system which automates all functional requirements of the title IV–D program under section 454(16) of the Act, must submit by October 1, 1991 and have approved within 9 months of submittal an advance planning document that provides for a statewide computerized child support enforcement system, and by October 1, 1995, must have in effect an operational system; the Secretary may waive certain procedural and functional system requirements if the State meets specific conditions; and enhanced funding for the planning, design, development, enhancement, installation and operation of automated child support enforcement systems is eliminated effective September 30, 1995.

These regulations also make certain conforming changes in the regulations covering the automated systems of the Aid to Families with Dependent Children program and the Job Opportunities and Basic Skills Training program.

EFFECTIVE DATE: October 14, 1992.

FOR FURTHER INFORMATION CONTACT: Richard Konkolewski, (202) 401–9364.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Computerized Support Enforcement Systems.

Description: The advance planning document requirements set forth in the regulation enable OCSE to determine whether the system improves the efficiency of the administration of the State Child Support Enforcement program and assist OCSE in reviewing any proposed system a State is developing for Federal financial participation as required by the Social Security Act. Existing reporting and recordkeeping activities have been incorporated into the rule and are identified in the estimated burdens listed below. The OMB control number assigned to the reporting and recordkeeping requirements of 45 CFR 302.85 and 307.15 is OMB No. 0970–0045. These requirements have been approved by OMB for use through November 30, 1992.

Description of Respondents: State child support enforcement agencies.

Estimated Annual Reporting and Recordkeeping Burden:

Requirement	Average time
45 CFR 302.85(a)(1) and 45 CFR 307.5(b).	6,400 APD Implementation. 240 APD planning. 240 APD update.
Total Previous Burden Hours.	6880
Total Burden Hours	6880

As required by section 3504(h) of the Paperwork Reduction Act of 1980, ACF has submitted a copy of this rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should direct them to the Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447 and the Office of Information and Regulatory Affairs, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503, Attn: Laura Oliven, Desk Officer for ACF.

Statutory Authority

These regulations are published under the authority of several provisions of the Social Security Act (the Act), as amended by Public Law 100–485. Sections 452(d), 454(24) and 455(a)(1) of the Act contain a new requirement for mandatory, statewide automated data processing and information retrieval systems to carry out the State's child support enforcement plan.

Section 402(a)(44) requires that benefits and services under titles IV–A, IV–D and IV–F be furnished in an integrated manner and that applicants and recipients of Aid to Families with Dependent Children cooperate in the establishment of paternity.

Section 454(24) provides that, if the State as of October 13, 1988, does not have in effect an automated data processing and information retrieval system meeting all of the requirements of section 454(16), the State:

(A) Will submit to the Secretary by October 1, 1991, for review and approval by the Secretary within 9 months after submittal, an advance automated data processing planning document of the type referred to in such paragraph; and

(B) Will have in effect by October 1, 1995, an operational automated data processing and information retrieval system, meeting all the requirements of that paragraph, which has been approved by the Secretary.

The new section 452(d)(3) provides that the Secretary may waive any requirement of section 452(d)(1) or any condition specified under section 454(16) with respect to a State if:

(A) The State demonstrates to the satisfaction of the Secretary that the State has an alternative system or systems that enable the State, for purposes of section 403(h), to be in substantial compliance with other requirements of this part; and

(B)(i) The waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c), or

(ii) The State provides assurances to the Secretary that steps will be taken to otherwise improve the State's Child Support Enforcement program.

The amended section 455(a)(1) repeals the 90 percent Federal reimbursement rate for automated systems for child support enforcement, effective September 30, 1995.

The amended section 455(16) clarifies that the automated child support enforcement system is intended to be a statewide system.

Sections 402(e), 542(d)(1), and 454(16) are amended to strike "automatic" each place it appears and replace it with "automated".

The new section 402(a)(44) provides that the State agency shall:

(A) Be responsible for assuring that the benefits and services under the programs under this part, part D, and part F are furnished in an integrated manner, and

(B) Consistent with the provisions of this title, ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to cooperate in the establishment of paternity and the enforcement of child support obligations, and are notified of the paternity establishment and child support services for which they may be eligible.

These regulations are also published under the general authority of section 1102 of the Act which requires the Secretary to publish regulations that may be necessary for the efficient

administration of the functions for which he is responsible under the Act

Background

Effective automation of the CSE program is essential to effective program operations and administration. To address this need, section 123 of Public Law 100–485 amends the State plan requirements under section 454 of the Act to mandate statewide, automated support enforcement systems.

Certain systems may already be in place which enable the State, for purposes of section 403(h) of the Act, to be in substantial compliance with program requirements under an audit. Therefore, the law provides for a waiver of certain functional requirements and conditions for approval.

To ensure that States have adequate time to implement these mandatory systems, timeframes are specified under which: States must submit Advanced Planning Documents (APDs) for review and approval; the Secretary must take action on State submissions; and each State must have an operational system in place. To encourage States to act quickly to develop efficient statewide systems, Congress directed a repeal of 90 percent FFP for Child Support Enforcement Systems (CSESs) by September 30, 1995, to coincide with the date when all systems must be operational. Because these are mandatory requirements for an approved State IV–D plan under section 454 of the Act, any State which fails to submit an APD by October 1, 1991, which is approvable by July 1992; and/or whose system fails to become operational by October 1, 1995, will be subject to the State IV–D plan disapproval process which could result in a loss of all IV–D funding. The conformity review procedures applicable to such actions are found at 45 CFR parts 213 and 301. These procedures are further outlined in program instruction OCSE–AT–86–21, issued on December 31, 1986.

Changes to Proposed Rule

We received 29 letters of public comment regarding the proposed rule published in the **Federal Register** May 14, 1991 (56 FR 22130) from State IV–D agencies and other interested parties. Specific comments and responses follow the discussion of regulatory provisions. As a result of the comments received, we have made several changes in the final rule:

- We revised the requirements under § § 250.81 and 307.10(b)(14) to clarify that where the State's IV–A and IV–F systems are integrated or electronically linked, the IV–A to IV–D interface would satisfy the requirement for a IV–D/IV–F interface;
- Paragraphs (b)(1) and (b)(6) of § 307.10 have been revised to modify language which had been extracted from the prior rules in error; and,
- We revised the requirement for Electronic Funds Transfer at § 307.10(b)(15)(v) to clarify that systems must provide States with the capability for electronic funds transfer for purposes of income withholding and interstate collection.
- The final rule adds a new paragraph under § 307.30, allowing States to request an accelerated depreciation schedule for hardware costs.

Regulatory Provisions

Family Assistance Management Information Systems—§ 205.36

In the introductory language to § 205.36, we changed "automatic" to "automated" to conform to the statutory language in section 402(e) of the Act as amended by section 123(d) of Public law 100–485.

We also redesignated paragraph (c) as paragraph (d) and added a new paragraph (c). Paragraph (c) requires family assistance management information systems to electronically refer and exchange information with programs under title IV–D—the Child Support Enforcement program, and IV–F—the Job Opportunities and Basic Skills Training Program (JOBS) for purposes of assuring that services are provided in an integrated manner.

In those instances where the IV–A and IV–F programs are integrated or have automated interfaces through which information needed by IV–D is obtained, the interface requirement between IV–D and IV–F would be satisfied through fulfillment of the IV–A/IV–D interface requirement.

JOBS Automated Systems—§ 250.81

To ensure that the automated systems developed under the Job Opportunities and Basic Skills Training (JOBS) program will be able to engage in data exchange with key related programs, we amend 45 CFR 250.81, State data systems options, to add a requirement that such systems must be capable of accepting and exchanging data electronically with title IV–A and title IV–D automated systems, unless as indicated above, this requirement is met through the IV–A/IV–D interface.

State Plan Requirement for Mandatory Computerized Support Enforcement Systems—§ 302.85

We changed the title of § 302.85 from "Computerized support enforcement systems eligible for 90 percent FFP" to "Mandatory computerized support enforcement systems." Section 302.85(a) reiterates the statutory requirement for a mandatory automated system for support enforcement. If the State did not have a computerized system meeting the requirements of the Family Support Act of 1988 in effect by October 13, 1988, under paragraph (a)(1) the State must submit to the Secretary by October 1, 1991, an APD or APD update in accordance with § 307.5, Mandatory computerized support enforcement systems. Under paragraph (a)(2), the State must have a certified operational computerized support enforcement system, approved by the Secretary, in effect by October 1, 1995. The system must be developed in accordance with §§ 307.5 and 307.10 and the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States."

Paragraph (b) contains provisions for waiver of Federal requirements related to an automated system for support enforcement as specified in section 123 of Public Law 100–485. Under paragraph (b)(1), a State may apply for a waiver of any condition for initial approval of an APD in 45 CFR 307.15(b) or any functional system requirement in 45 CFR 307.10. Waiver requests must be submitted and approved as part of the State's APD or APD update.

Paragraph (b)(2) contains the conditions for receiving a waiver. To obtain a waiver, the State must demonstrate that it has an alternative approach to APD requirements or an alternative system configuration, as defined in § 307.1, that enables the State to be in substantial compliance with program requirements in accordance with audits conducted under 45 CFR part 305. In addition, the State request must either meet the criteria set forth for waivers under section 1115(c) (1), (2) and (3) of the Act; or the State must provide written assurances that steps will be taken to otherwise improve the State's Child Support Enforcement program. Specific criteria for meeting these requirements are provided under § 307.5 and are explained under that section of this preamble.

Change in Federal Financial Participation—§ 304.20

To make part 304 regulations consistent with the statute, we amended 45 CFR 304.20, Availability and rate of Federal financial participation, at paragraph (c) to provide that FFP at the 90 percent rate for the planning, design, development, installation and enhancement of computerized systems

that meet the requirement of § 307.30(a) is only available until September 30, 1995.

Computerized Support Enforcement Systems—Part 307

We amended 45 CFR part 307, Computerized support enforcement systems, throughout to conform part 307 to the changes required by section 123 of Public Law 100–485 and the revisions to § 302.85, which were discussed earlier. With one exception, the words "eligible for 90 percent FFP" have been removed from the part 307 section titles to reflect these changes.

We revised § 307.0, Scope of this part, to reflect the new requirement of Public Law 100–485 that all States have automated CSE systems installed and certified by October 1, 1995. This was accomplished by referencing the new statutory language in the introductory section, and by adding a new paragraph (a) which refers to the mandatory nature of CSESs. Accordingly, we deleted references to optional development of comprehensive, statewide systems at the enhanced matching rate in paragraphs (a), (b) and (d) through (g) since CSESs are no longer optional and 90 percent funding for such systems will not be available as of October 1, 1995. Former paragraphs (a) through (g) are redesignated as paragraphs (b) through (h).

In § 307.1, Definitions, we added several definitions intended to clarify what types of systems we will fund, what their overall specifications must be, and what approvals are required. The new definitions are "Alternative approach", "Alternative system", "Alternative system configuration", "Base system", "Certification", and "Comprehensive." In addition, we revised the definitions of "Computerized support enforcement system" and "Planning."

"Alternative approach" to APD requirements is defined under paragraph (a) to mean that a State's APD does not meet all conditions for APD approval in § 307.15(b), resulting in the need for a waiver under 45 CFR 307.5.

"Alternative system" is defined under paragraph (b) to mean the separate manual and/or automated processes that perform one or more of the required functions separately from the base system and which interfaces with the base system to ensure that the State can meet all requirements for purposes of the audit as prescribed in section 403(h) of the Act. The State must demonstrate that the alternative system is operational and can be linked to the base system in an effective and efficient manner. Under this definition, these separate processes may involve geographic areas, such as counties; administrative jurisdictions, such as courts; or separate means by which the State meets particular program requirements, e.g., collection of support for non-AFDC cases.

"Alternative system configuration" is defined under paragraph (c) as an alternative to a comprehensive, statewide computerized support enforcement system (which previously was the only type of system eligible for enhanced funding at the 90 percent rate). It includes a base system which links electronically to an alternative system. The alternative system would not be part of the State's computerized support enforcement project, i.e., the development effort may have been under other than IV-D control and separate from the base system (not the sole systems effort in the State). The base system and alternative system taken together comprise the alternative system configuration. Such configuration must include the processes necessary for the State to meet the functional requirements for a computerized support enforcement system under § 307.10.

"Base system" is defined under paragraph (d) to mean the hardware, operating software, applications software and electronic linkages which allow the State to control, account for and monitor all support enforcement services and activities under the IV-D State plan in an alternative system configuration. The base system concept is key to an alternative system configuration, since it ensures overall IV-D agency control of the functions that a mandatory child support enforcement system must perform.

"Certification" is defined under paragraph (e) to mean approval of an operational computerized support enforcement system based on a determination that the system has an efficient and effective design and, except where a waiver applies, is comprehensive. A system must be certified by October 1, 1995 in order to meet requirements for a mandatory automated system within statutory deadlines.

Certification may be granted in two stages. The first stage, level 1 certification, will be granted when a State system meets all functional requirements in § 307.10 and is installed and operational in a pilot or multiple pilot location. Level 2 certification will be granted when Statewide installation of the functionally comprehensive system is complete and the system is operational.

"Comprehensive" means in the definition at paragraph (f), that the computerized support enforcement system meets the requirements of § 307.10 and the standards in the guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States."

Under these regulations, "Computerized support enforcement system" is redefined under paragraph (g) to mean a comprehensive, statewide system, or an alternative system configuration. Either system must encompass all political subdivisions within the State and must be efficient and effective in its capture and use of all of the data necessary to carry out activities under the State plan under paragraph (g)(1) and, under paragraph (g)(2) in its production of utilization and management information required for administration and audit purposes. This definition has been changed from the previous definition in three ways—(1) to allow for an alternative system configuration, where a waiver has been granted as permitted by statute; (2) to incorporate coverage of all political subdivisions of the State; and (3) to require efficient and effective operation.

Efficient and effective, as referred to in the definition of CSES under paragraph (g), is a standard that OCSE has always considered in certifying a system, in addition to whether the system is comprehensive in its ability to perform all required program functions. To be considered an efficient and effective system: a system must improve program management and administration by addressing all program services and case processing requirements; the design must appropriately apply computer technology; the project must not require duplicative application system development or software maintenance; the procurement must provide for maximum free and open competition; and costs must be reasonable, appropriate and beneficial. As indicated, these do not represent new criteria for certifying systems; we are merely stating, for clarity, basic factors which should be inherent in an automated system effort. Because the phrase "efficient and effective" represents common terminology not specific to systems, the definition here only refers to part 307 and may not be applicable in any other context.

In paragraph (h), we revised the definition of "Planning" by adding language to clarify under paragraph (h)(3) that project plans will describe how systems will be designed "or transferred and adapted," to reflect the most common form of system installation in States.

We redesignated previous paragraph (c) which provided a list of terms defined in 45 CFR part 95, subpart F, 95.605 as paragraph (i) and revised the list to include "Enhancement," "Implementation Advance Planning Document" and "Planning Advance Planning Document." These terms were included in the final rule published in the **Federal Register** February 7, 1990 (55 FR 4363). Previous paragraph (d) has been redesignated as paragraph (j) and continues to reference the applicability of the definitions under § 301.1 to part 307.

Mandatory Computerized Support Enforcement Systems—§ 307.5

In order to have one place in the regulations that provides a reference point for the multiple requirements related to the new mandatory systems, we added a new 45 CFR 307.5, Mandatory computerized support enforcement systems. This section provides an outline of the requirements of section 123 of Public Law 100–485, including waiver options, APD requirements, and new limitations on FFP. Cross references in this section point to other relevant regulations containing more detailed requirements involving mandatory computerized support enforcement systems.

Paragraph (a) contains the basic requirement that each State must have an operational computerized support enforcement system in effect by October 1, 1995, which is certified.

Under paragraph (b), each State must submit its APD or APD update by October 1, 1991 in accordance with § 307.15. This deadline is mandated by Public Law 100–485, which requires States to submit an APD to the Secretary by October 1, 1991 for review and approval by the Secretary within 9 months after submittal.

Paragraph (c) delineates the waiver option. Under this provision, a State may apply for a waiver of any functional requirement in § 307.10, by presenting a plan for an alternative system configuration; or for a waiver of any condtions for APD approval in § 307.15(b), by presenting an alternative approach. Waiver requests must be submitted and approved as part of the State's APD or APD update; the waiver thus becomes part of the State's approved APD. Disapproval of a waiver request is a final administrative decision and is not subject to appeal.

Paragraph (d) provides the conditions for granting a waiver, taken from the statute, as discussed earlier. Under this provision a State may receive a waiver if, under paragraph (d)(1), the State demonstrates it has an alternative approach to APD requirements or an alternative system configuration that enables the State, in accordance with an audit conducted under part 305 to be in substantial compliance with the requirements of title IV-D of the Act. In addition, under paragraph (d)(2), the request must meet the criteria set forth in section 1115(c)(1), (2) and (3) of the Act or, under paragraph (d)(3) the State must provide written assurances that steps will be taken to otherwise improve the State's child support enforcement program.

As referenced in paragraph (d)(2), section 1115(c) of the Act provides that in the case of any experimental, pilot, or demonstration project undertaken under subsection (a) to assist in promoting the objectives of part D of title IV, the project—

(1) Must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program;

(2) May not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

(3) Must not result in increased cost to the Federal government under the program of Aid to Families with Dependent Children.

Written assurances, as referenced in paragraph (d)(3), means clear and convincing documentation of the method the State intends to implement to fully comply with all State plan requirements and all standards for program operations provided under parts 302 and 303 of this chapter, respectively in the form of an action plan for implementing the alternative procedure or function.

Paragraph (e) specifies APD submittal requirements for alternative system configurations. Under this paragraph, in addition to meeting the conditions for APD approval in § 307.15(b), the APD must: (1) Describe the State's base system; (2) include a detailed description of the separate automated or manual processes the State plans to use and how they will electronically interface with the base system; and, (3) provide documentation showing that the alternative system configuration will enable the State to be in substantial compliance in accordance with section 403(h) of the Act and audits conducted under part 305 of this chapter. In addition, if the State is subject to an audit penalty Notice of failure to substantially comply with the requirements of title IV-D of the Act at the time a waiver is requested, the State must demonstrate under paragraph (3), that the deficiency is not related to the system or caused by the performance of the system, or specify the corrective action being taken to modify the system to eliminate the deficiency.

As previously defined, an alternative system configuration is an alternative means for meeting the requirement for a statewide CSES and includes a base system which links electronically to separate automated or manual processes, which are not part of the State's systems project but which are necessary to meet the functional requirements of a Statewide CSES. The separate processes may include geographic areas, such as counties; administrative jurisdictions, such as courts; or, separate means by which the State meets particular program requirements.

Paragraph (f) covers the APD submittal requirements for an alternative approach. In the case of an alternative approach to APD requirements, the State must demonstrate why meeting certain conditions for APD approval in § 307.15(b) are unnecessary or inappropriate. If a State requests a waiver of a functional requirement, the State may also be exempted from meeting the procedural requirement for "sole system effort" described at § 307.15(b)(1). The State must address each provision for which the waiver request applies.

Even when a waiver of a APD procedural requirement is granted, the State will still be required to perform an essential functional activity to assure that efficient and effective systems are developed. Therefore, a State would have to consider and act on each of the requirements stipulated in § 307.15(b) unless indicated otherwise by the Department.

Approval of a waiver will enable the Department to approve Federal funding for expenditures, and thus not unduly delay the start of a system project. In all instances when a waiver is granted for an alternate approach to an APD, our letter of Federal funding approval to the State will stipulate a submission date for essential data related to the waiver provision that may be required, e.g., data which confirms that the alternative is efficient and effective. Federal funding will be contingent on the receipt of acceptable data by the date stipulated for submission and on our determination that system efficiency and effectiveness are not at issue.

Paragraph (g) describes OCSE review of waiver requests. Paragraph (g)(1) provides that OCSE will review requests to assure that all necessary information is provided, that all processes provide for efficient and effective program operation, and that the conditions for

waiver discussed above in paragraph (d) are met. Under paragraph (g)(2), once a waiver is approved it becomes part of the State's approved APD. As part of the APD, a waiver would be subject to the APD suspension provisions in § 307.40. If an APD is suspended, enhanced Federal funding will cease for any provisions of § 307.10 or § 307.15(b) that are covered by the waiver until a determination that the necessary corrective action has been taken. When a suspension is removed, waived provisions are automatically back in force.

Under paragraph (g)(3), when a waiver is not approved, the APD will be disapproved. No administrative appeal is available in the case of an APD disapproval other than the hearing process established with respect to State plan conformity issues referred to earlier in this preamble.

The final paragraph in § 307.5, paragraph (h), covers FFP limitations for mandatory automated systems. Under paragraph (h)(1), the provisions for Federal funding for computerized support enforcement systems in § 307.30 (Federal financial participation at the 90 percent rate) and § 307.35 (Federal financial participation at the applicable matching rate for computerized support enforcement systems) continue to apply. Subparagraph (h)(2) adds conditions for FFP specific to alternative system configurations. Under this provision, FFP is available at the enhanced matching rate for development of the base system and for hardware, operating system software, and applications software; and for electronic linkages with the separate component of the alternative system configuration. FFP is available at the applicable matching rate for minor alterations to the separate automated or manual processes that are part of an alternative system configuration and for operating costs including hardware, operational software and applications software of a CSES. "Minor" alterations as used here refer to simple modifications such as changing or adding data elements. FFP is not available for developing new systems or making major changes and enhancements to separate automated or manual processes so that an alternative system configuration could meet conditions for waiver. A "major" change would include any circumstance where developmental changes would be necessary to enable the State system to meet the waiver criteria, such as the development of software to perform a particular function.

Functional Requirements for Mandatory Systems—§ 307.10

We revised § 307.10 to amend the title from "Computerized support enforcement systems" to "Functional requirements for computerized support enforcement systems", which is more descriptive of the section's actual content. Previous paragraph (a) which introduced the mandatory nature of the minimum requirement for a CSES under the State plan was inserted in the introductory language since all requirements are now mandatory. Paragraphs (a)(1) through (a)(2)(xiii) are redesignated as paragraphs (a) through (b)(13) for simplicity. Newly designated paragraphs (b) (9), (10), and (13) were revised to address new requirements as outlined below and new paragraphs (b) (14), (15), and (16) were added.

Paragraphs (a) through (b)(8) continue to require that systems efforts proceed in accordance with initial and annually updated APDs approved under § 307.15 and that systems account for all factors in the support enforcement process including maintenance and verification of necessary case file information; maintenance of data for purposes of Federal reporting requirements; maintenance of information on location, paternity establishment and support order establishment and enforcement; collection and distribution of payments, including incentive payments; maintenance of accounts receivable information; and maintenance of costs of all services rendered.

In response to comments on the proposed rule, we made a technical change to § 307.10(b)(6), regarding incentives to reflect prior program changes to the incentive structure. Under paragraph (b)(6), the system must be capable of calculating and distributing incentives to political subdivisions which share in the cost of financing the program. Where States choose to pay incentives to other political subdivisions based on efficiency and effectiveness under § 302.52, the system must also be capable of calculating and distributing those incentives.

Under § 307.10(b)(9), systems must be capable of accepting case referrals and update information from the State's AFDC program and use that information to identify and manage support enforcement cases.

Paragraphs (b)(10 and (b)(13) (previously paragraphs (a)(2)(x) and (xiii)) are amended by replacing vague requirements such as "interfacing" and "ensuring compatibility" with more specific requirements focusing on "electronic linkages" and "electronic data exchange." Thus, systems are required under paragraph (b)(10) to be capable of transmitting information electronically to the State's AFDC program so that the IV–A agency can determine (and report back to the IV–D system) whether a collection of support causes a change in eligibility for or the amount of aid under the AFDC program. Paragraphs (b)(11) and (b)(12) continue to require that systems provide necessary security to prevent unauthorized access to or use of data and provide management information on all IV–D cases, respectively. Under paragraph (b)(13), the system is required to be capable of accepting case referrals and electronic data exchange with the State Medicaid system, and to provide for the transfer of the medical support information specified in 45 CFR 303.30 and 303.31.

Similarly, under paragraph (b)(14), the State automated CSES is required to provide electronic data exchange with the State title IV–F program. This may be accomplished through the IV–A/IV–D interface where the State's IV–A and IV–F systems are integrated or electronically linked.

We added paragraphs (b) (15) and (16) to ensure that systems are developed which sufficiently automate all remaining program functions not mentioned under other paragraphs of this section. Under paragraph (b)(15), the State is required to use automated processes to facilitate meeting State plan requirements under part 302 and Standards for program operations under part 303.

State child support enforcement agencies have been required since October 1, 1990, to meet specified standards of program operations. These standards impose specific case actions and timeframes for providing services which must be met for each phase of child support case processing. To meet these standards States must keep extensive records of all activities and maintain stringent control over each case activity necessary. While these standards can be met by any well-managed program regardless of the stage of automation, automation will assist the State in successful implementation and ongoing maintenance of these requirements and will be of unquestionable benefit in terms of overall program management.

Paragraph (b)(15)(i) requires that the system provide for automated maintenance and monitoring of accurate records of support payments.

Paragraph (b)(15)(ii) requires that State systems provide automated maintenance of case records for

purposes of the management and tracking requirements under § 303.2. Section 303.2 includes basic steps and timeframes, effective October 1, 1990, which must be met in establishing IV–D cases and for maintaining necessary case records.

Paragraph (b)(15)(iii) requires that title IV–D workers be provided, through the establishment of an electronic link, on-line access to automated sources of absent parent employer and wage information maintained by the State. Under this requirement, State systems must be able to conduct periodic matches for on-going case management purposes. Exceptions to paragraph (b)(15)(iii) will be made for those States where an exchange of automated employer and wage information is not possible because automated data is not available or the IV–D agency is unable to gain access to such data.

Paragraph (b)(15)(iv) requires State systems to provide locate capability by automatically referring cases electronically to locate sources within the State, such as State motor vehicle departments, State departments of revenue and other State agencies, and to the Federal Parent Locator Service; and utilizing electronic linkages to receive locate information and place the information on-line to title IV–D case workers throughout the State. Records of all location attempts, dates and results should be maintained by the system. We recognize that certain data, e.g., tax and 1099 data are not available on-line to States because of security and safeguarding concerns and will continue to be matched in a batched, off-line mode.

Paragraph (b)(15)(v), requires that systems provide capability for electronic funds transfer for purposes of income withholding and interstate collection. This requirement will ensure timely receipt of collections, disbursements and distribution of support payments.

Under this requirement, States must have the capability to both accept electronic fund transfers for wage withholdings from those employers who choose to employ this type of technology, and to transmit support collections to initiating States. While an electronic funds transfer process cannot be imposed on an employer, many have indicated that they favor the use of standardized procedures and the opportunity to build wage withholding into their normal automated payroll process.

Paragraph (b)(15)(vi) requires integrating all processing of interstate cases with the computerized support enforcement system, including the central registry.

Finally, under paragraph (b)(16), to ensure the auditability of the system, a State's system must provide automated processes that enable OCSE to monitor State operations and assess program performance in the audit conducted in accordance with sections 403(h) and 452(a) of the Act. A clear audit trail of case processing activities is vital to the success of an automated system and is critical to program management.

Auditability should be a management concern and relates to management control responsibilities. Systems should contain an automated capability that will permit an expeditious review and analysis of all automated data that is used, produced, and reported by the system. This capability must provide for the retention and review of all case actions and activities that occur in or are processed by the system, including dates of these activities.

In addition, all information and data (including, but not limited to, program, financial, and statistical data) produced by the system must be readily accessible, in a timely manner, for purposes of the audit conducted under 45 CFR part 305. The system must be capable of generating a history file that can be used to recreate and review a case event. While it is preferable that the system have a complete and accurate history file, the historical information can be maintained in hardcopy form, in an automated fashion, or in a combination of the two as long as it is maintained in a logical sequence which would make the information readily accessible. However this information is maintained, the State must ensure that a permanent record of all actions taken on each case and the results of those actions, where appropriate, is preserved. For example, both a record of the date of each locate attempt, as well as the source or sources queried and the date of each positive or negative result must be maintained. The substantive evidential matter produced and retained by the system and the ability to locate and reconstruct processing must be maintained.

It should also be noted that the requirements for CSESs do not supersede any statutory or regulatory requirements for maintaining copies of legal or other documents. However, such documents for Federal CSE purposes, do not necessarily have to be maintained in hard-copy; microfiche, optical disk imaging or some other form of automated document retention could be utilized.

Approval of APDs—§ 307.15

We revised the title of § 307.15 which previously read, "Approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP," by deleting reference to 90 percent funding since it is no longer pertinent. All States are required, as part of an approved IV–D state plan, to have a CSES in effect by October 1, 1995 and enhanced funding for that purpose will expire September 30, 1995.

Paragraph (a), Approval of an APD, was revised to provide that the Office shall not approve the APD and annually updated APD unless the document, when implemented, will carry out the requirements of § 307.10. This revision reflects the new definition of "APD" in 45 CFR part 95, and other changes included herein. The definition of "APD" in part 95 has been revised to include all types of APDs.

Paragraph (b), which provides conditions for initial approval, was revised to add "statewide" before "computerized support enforcement system" to reflect our understanding of Congressional intent. Paragraph (b)(1) which required that the APD must represent the sole systems effort being undertaken by the States was revised to add that if the State is requesting a waiver under § 302.85, the APD must specify the conditions for which waiver is requested. Under this requirement, a State must provide a brief description of each functional requirement under section 454(16) of the Act or any procedural requirement of section 452(d)(1) for which the State is requesting a waiver.

Paragraph (b)(2) of this section, which required that the APD specify how the objectives of the system will be carried out throughout the State, including a projection of how the proposed system will meet the functional requirements and encompass all political subdivisions, was revised to add the words "single State" to reflect common terminology as applied to automated support enforcement systems. Consistent with the requirements of this part, we also modified paragraph (b)(2) to include language indicating that State APDs must show how the single State system will encompass all political subdivisions in the State by October 1, 1995.

Paragraphs (b)(3) through (b)(10) continue to require that the APD assure the feasibility of the proposed effort and provide for a requirements analysis study; indicate how the results of the analysis study will be incorporated into the proposed system; contain a description of each component within the system; describe the security requirements; describe the projected resource requirements; contain a

proposed budget; and contain an implementation plan and backup procedures to handle possible system failures.

Paragraph (b)(11) requires that the APD describe each system considered during planning including the advantages of selecting the proposed solution. If a transfer system is not selected, a transfer system must be among those systems considered. If a system that is ready in place in the State could be enhanced to meet the requirements, that system must be among the solutions considered. This conforms to 45 CFR part 95 language, under the definition of Planning APD, which specifies that States must assess other States' systems for transfer, to the maximum extent possible, of an existing system.

Paragraph (b) (12) continues to require that the APD contain a cost benefit analysis of the proposed system and each alternative considered.

We made a technical revision to paragraph (b)(13), which required that the APD specify the basis for determining direct and indirect costs of the system during the development and operation, by changing the reference to "70 percent FFP" to "Federal funding at the applicable matching rate" to reflect changes which have been made to the regular matching rate for child support enforcement administrative expenditures.

Paragraph (b)(14) continues to require that the APD contain a statement indicating the period of time the State expects to use the proposed system. Paragraph (b)(15) was added to specify that the APD must contain any waiver granted in accordance with § 307.5.

Paragraph (c) continues to specify the condition for approval of an annual update.

We made a technical change to the title of § 307.20—Submittal of advanced planning documents for computerized support enforcement systems eligible for 90 percent FFP, by deleting the reference to the funding rate.

Review and Certification of Mandatory Automated Systems—§ 307.25

Previous regulations at § 307.25, Review of computerized support enforcement systems eligible for 90 percent FFP, provided that the Office will review, assess and inspect the planning, design, development, installation, enhancement and operation of systems developed under § 307.10, to determine that the system: (a) Meets the requirements found in § 307.15 and (b) can be certified as meeting the conditions of § 307.10(a) and the optional provisions of § 307.10(b).

We deleted the reference to 90 percent FFP in the title and deleted former paragraph (b) which made reference to § 307.10(b) as an optional provision. These changes are consistent with other requirements in these regulations.

We added a new § 307.25(b) to reference in regulations the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States" along with the requirements of § 307.10, as criteria for determining whether a system may be certified. This change codifies that the guidelines are used as a basis to determine if completed systems meet certification requirements.

As indicated under the definition of certification, the Office will utilize, upon State request, a two-level certification process in order to provide States with the option to request functional certification of its CSES upon the completion and installation of a functionally comprehensive system in pilot locations. The level 2 or full certification review would be achieved at the time the functionally approved level 1 certified State system becomes operational statewide. Since level 1 certification is optional, a State may elect to convert cases and proceed from pilot to statewide implementation without level 1 approval.

States must request level 2 certification upon the completion of statewide installation of the functionally comprehensive CSES in all political subdivisions and agencies involved in child support enforcement in the State. The system should meet all functional requirements and be fully operational and include all cases.

Conditional certification is only valid through September 30, 1995, at which time all States must have a fully certified system.

FFP Availability—§ 307.30

Paragraph (a) of § 307.30 provides the conditions that must be met for FFP. "Until September 30, 1995," was inserted in the introductory language since 90 percent funding is discontinued effective October 1, 1995, and reference to § 307.5, concerning the newly enacted waiver provision, was added. Under the specific conditions, paragraph (a)(1) continues to provide for an approved APD in accordance with § 307.15 and paragraph (a)(2) continues to require that the system meet the requirements specified in § 307.10; however, the reference to the optional requirements in § 307.10(b) was eliminated to conform to other changes made in this rule.

Paragraph 307.30(a)(3) continues to provide the condition that the Office determine that the expenditures incurred are consistent with the approved APD.

Paragraphs (a)(4), (a)(5) and (a)(6) continue to: require a determination by the Office that the CSES is designed efficiently and effectively; provide for a written agreement by the State to use the system for a period of time which is consistent with the APD approved by the Office; and for ownership rights of software, respectively.

Paragraph (b), which provides for reimbursement of hardware and proprietary software, was revised in subparagraphs (1) and (2) to replace the effective date of October 1, 1984 with the limitation "Until September 30, 1995" to reflect the statutory deadline for 50 percent FFP. In addition, under (b)(2), we corrected the title of the OCSE guideline for automated enforcement systems.

While not representing a policy change, we would like to note that States must comply with § 95.617, which requires that the State or local government will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation. FFP is not available for proprietary application software developed specifically for Federal programs covered under part 95, including IV-D.

Paragraphs (c), HHS rights to software, and (d), Consequences of suspension of APDs, remain unchanged.

Section 307.35 provides for Federal financial participation at the applicable matching rate for computerized support enforcement systems. We made a technical change to amend § 307.35(a) to reflect other changes made throughout the regulation. Thus, we replaced the reference to § 307.10(a) and (b) with a reference to § 307.10 and added a reference to § 307.5.

Suspension of APD Approval—§ 307.40

Section 307.40 contains provision for suspension of approval of advance planning documents. We made a technical change to the title by removing the reference to 90 percent FFP. In addition, we amended § 307.40(a) by specifying that waivers of functional and procedural requirements, by their inclusion in APDs, are subject to the conditions of APD suspension as of the date the system approved and developed under § 307.10 ceases to comply substantially with the criteria, requirements, and provisions in the APD. A suspension of the APD could be imposed if it is determined that a State operating a system under an approved waiver failed to perform the mandatory

functions imposed by § 307.10 or the waived functions are not being performed as described in the approved waiver. In both instances, the State will have violated the conditions of approval as described in the APD.

Response to Comments

We received a total of 29 comments on the proposed rule published in the Federal Register May 14, 1991, (56 FR 22130) from State IV-D agencies and other interested parties. Specific comments and our responses appear below.

General Comments

Comment: Non-IV-D agency commenters and some IV-D agency commenters were extremely supportive of the proposed rules. They generally believed that by mandating a fully automated system, both program management and operations would be significantly improved.

Response: In developing these regulations, we followed the legislative mandate at section 454(24) of the Act, which requires that all States have an automated data processing and information retrieval system encompassing all CSE program and management requirements. The intent of such systems is to provide each State agency with the tools necessary to manage the demands of an ever-increasing caseload.

In legislatively mandating that all States have comprehensive automated systems, Congress recognized the power of automation in assisting States to effectively manage their ever-expanding caseloads. Such systems will save valuable staff time, enabling workers to focus on the more individual needs of a case.

Extension of Mandatory Timeframes

Comment: Seven IV-D agencies and two other commenters stated that they did not believe that the September 30, 1995 deadline for having a certified system in place was achievable. They suggested that the deadline for system completion and for receipt of enhanced funding be extended beyond September 30, 1995. Three of these commenters suggested that the deadline for full operations be five years after the Implementation APD approval date; one suggested that the deadline be extended until 1997 if that was later than five years after the APD approval date.

Response: Section 123 of the Family Support Act requires that States have an operational statewide computerized system in effect by October 1, 1995 as a condition of title IV-D State plan approval. We have no statutory authority to extend that date. However, the date specified in statute can be met if State officials designate automation as a leading program priority and provide the top-level commitment systems efforts merit.

Comment: Several commenters requested that the regulation at § 307.5(b) be revised to include the nine-month deadline OCSE faces for review and approval of States' Implementation APDs. One commenter requested that OCSE's deadline be set at three or six months, rather than nine, to maximize the time available to States for system completion. Another commenter requested that we clarify that October 1, 1991, is not the final Federal approval date.

Response: The statute expressly provides the Secretary with a nine-month period from the point of receipt to review and approve a State's APD and we believe the full nine-month period is necessary to enable this Office to work with States to secure approval. However, the commenter may have misunderstood the purpose of the nine-month approval period. Nine months are not needed by this office to review and make a determination on an APD submission. This office made determinations on all APDs submitted to meet the October 1991 requirement, by December. Rather, the nine-month period is necessary for States to work with this Office to resolve any issues cited in the initial determination that the APD is not approvable. For example, often States must work with counties to prepare follow-up documentation necessary to support funding requests.

As indicated in the preamble to the Notice of Proposed Rulemaking, the Secretary is committed to meeting the timeframe provided by statute for assessing and acting on the approval of all APDs and APD updates submitted by States. However, with respect to the suggestion that this timeframe be codified, we believe it would be meaningless to codify the requirement because the statute is clear and the deadline in question is near.

Comment: Four commenters addressed the need to extend the deadline for enhanced funding of hardware beyond the September 30, 1995 deadline provided for in the legislation. While they recognized that Congress had imposed this deadline, they did not believe that it was Congressional intent to eliminate the availability of enhanced funding for this effort. One of these commenters had specific suggestions which, implemented alone or in combination, would allow States to receive enhanced funding for hardware purchases. The three options were: (1) Provide enhanced funding after October 1, 1995 only for equipment and only for that equipment being depreciated for the sixty-month depreciation period; (2) Fully depreciate the equipment within the period up to October 1, 1995; or (3) Expense the remaining undepreciated amount of equipment purchases when certification is achieved. The equipment purchased would have to be consistent with an approved APD.

Response: Section 123(c) of the Family Support Act explicitly eliminated enhanced funding for systems activities as of October 1, 1995. We have no authority to adjust this statutory date or to revise the Department's requirements for capitalization and depreciation of equipment in this final rule. The controlling requirements are found in 45 CFR part 95 subparts F and G.

Comment: One commenter expressed the belief that, in the absence of enhanced FFP, no new system changes should be mandated after September 30, 1995.

Response: Enhanced funding for child support systems was made available to allow States to achieve the level of automation needed for improved program effectiveness. Experience has shown that States with Statewide, comprehensive systems in effect are able to make systems adaptations at relatively low costs to meet new requirements. Accordingly, it is expected that States would be able to address future program requirements through system adaption, at the regular rate of Federal funding. All state systems should be designed to accommodate modifications since, historically, the CSE program is not static.

Waiver

Comment: One commenter expressed appreciation of OCSE's recognition that alternative systems existed in States. This same commenter and one other expressed concern that waiver approval would be the exception rather than the rule. Alternatively, a third commenter, while recognizing that a waiver in some circumstances would be appropriate, expressed the belief that waivers should only be granted in exceptional circumstances.

Response: The Family Support Act requires that each State operate a comprehensive automated data processing and information retrieval system. The inclusion of waiver authority in the statute recognizes that certain situations may exist which are effective but which do not fully comply with the specific statutory provisions for

IV-D automation. However, the development of a uniform, comprehensive system remains the stated goal and we do not expect to receive many waiver requests.

Comment: One commenter requested that we clarify in the regulations that the alternative system must be operational at the time that a waiver is requested as part of the Implementation APD submittal. Another commenter believed that a State should have leeway beyond the September 30, 1991, deadline for having a fully operational alternative system. Two commenters questioned whether or not a waiver request could be submitted after the submission and approval of the State's Implementation APD.

Response: As stated above, we believe Congressional intent was that each State develop a single automated data processing and information retrieval system under the control and management of the IV-D agency. The waiver authority was provided for those rare instances where a State has an alternative system which allows the State to be in substantial compliance with program requirements. We do not believe that Congress intended States to undertake the development of alternative systems.

The Department recognizes that circumstances may arise during the development of a statewide CSE system which would necessitate the submission of a waiver request. In such instances, we would consider the waiver request if it met all of the waiver requirements found at § 307.5(d), (e) and (f). In addition, the State would need to provide justification for the change in direction from the approved Implementation APD, including an impact and cost/benefit analysis.

Comment: One commenter questioned the funding exclusion for duplicative application software. Specifically, if a separate system component is a part of the alternative system configuration and this component operates in only one county of the State, is this considered "duplicative software maintenance?"

Response: Yes, the situation described would constitute duplicative software maintenance. When a waiver is approved for an alternative system and that system performs a function which is also performed by the base system, we would not fund the development of the software necessary to perform the duplicative function.

Comment: One commenter questioned when enhanced Federal funding would begin once a waiver request is approved. For example, if a State were operating an existing system that could be considered statewide with the waiver approval, does the enhanced FFP for hardware begin with the waiver approval?

Response: Enhanced funding for hardware would be available at the time the system is certified as operational prior to October 1, 1995, regardless of the existence of a waiver. For additional information, see program instruction OCSE-AT-90-11, issued October 9, 1990.

Comment: One commenter questioned whether a State would be in compliance with the waiver provision if the alternative system configuration included a component that operated in only one county.

Response: As discussed in the preamble to the proposed rule, if an alternative system configuration is necessary to address a component limited to one county, waiver provisions would apply assuming all conditions set forth in § 307.5 are met. The definition of an "alternative system," specifically addresses separate processes, which may involve geographic areas such as counties, by which the State meets particular program requirements.

Comment: One commenter questioned the definition of an "efficient and effective" interface between the "alternative system" and the "base system."

Response: The commenter is referring to the preamble discussion of the definition of an alternative system under § 307.1 which provides that the State must demonstrate that the alternative system is operational and can be linked to the base system in an effective and efficient manner. In determining whether the interface is "efficient and effective," the Department will consider timeliness, quality and cost factors associated with the alternative system configuration and the States ability to comply with program requirements utilizing the alternative system. Specific requirements governing waiver requests can be found at § 307.5 (d) through (h).

Comment: One commenter questioned the following situation: If a State has an approved APD and submits a waiver request that is not accepted by the Federal agency, may the State continue under its previous approach without disapproval of the APD?

Response: If we disapprove the waiver request and accordingly the Implementation APD of which it is part, the State would be required to review its initial APD to ensure that no changes need to be made to its content. If the State has not abandoned its initial APD, they would need only request that it be reinstated.

However, we would recommend that the State include in the waiver request its intent to continue under the initial APD should the waiver request be rejected.

Comment: One commenter asked that we clarify references to the "applicable matching rate" throughout the regulation.

Response: Applicable matching rate as defined in § 301.1 and used in part 307 of the regulations, refers to the regular rate of Federal matching (66 percent effective October 1, 1990). This term is used in the program and financial regulations to reflect changes which have been made to the rate over the years. We are merely following that terminology for consistency.

Comment: One commenter requested that additional clarification of the scope and extent of waiver conditions be provided.

Response: The general scope and conditions for waiver approval are found at section 123(b) of the Family Support Act and are examined more thoroughly throughout this preamble and in these regulations. We believe the discussion in the regulations is clear. If additional detail is necessary to address State-specific questions, Regional Office input should be sought.

Definitions

Comment: Two commenters questioned the Federal expectation for data transfer, i.e., whether data needed to be transmitted in an on-line, real-time mode, or whether batch oriented exchanges were intended or permitted.

Response: Our intent in proposing data transfer was to insure the availability of data of all components associated with locate, establishment, enforcement and collection activities so that workers would have timely and complete information. If, for reasons beyond the control of the IV–D agency on-line exchange is not possible, batch processing will be accepted. However, the exchange of information through batch processing must allow for the automatic update of the CSE system, without manual entry of the data received through the interface from the outside source.

Comment: Three commenters questioned OCSE's system transfer policy. One commenter believed that States should be provided the flexibility to develop a system which best fits the unique characteristics of its State, rather than adapting an existing system. A second commenter understood that OCSE would require systems replacement by transfer even though the State had an operational system. Another, expressed the belief that it would be useful for HHS to act as a clearinghouse so that a State does not

repeat the same learning process experienced by another State.

Response: We believe the system requirements provide States necessary flexibility to develop systems fitting their individual needs, whether through enhancement of existing systems efforts or through adaptation and modification of a transfer system. The second commenter apparently misunderstood the requirements concerning systems transfer. We never intended that existing operational systems be replaced with transfer systems. Rather the requirement is that a State in the planning phase of automation, conduct an alternative analysis to consider both the enhancement of any existing systems efforts and the transfer of a new system to determine the most cost-effective approach.

We continue to believe that system transfer is the most efficient way for States to obtain an automated system. Experience has shown that transfer systems require less time to implement and are less prone to failure. At this time, a number of State systems have been identified as transferable. OCSE acts as a clearinghouse for systems documentation. These materials are available to the public upon request. We have encouraged the sharing of State experience by establishing a IV–D Users Group for this specific purpose. Further, we will provide technical assistance to States in assessing the feasibility of transferable systems. Because of the modular design of some systems, it is possible to blend two or more transfer systems to meet a State's specific requirements.

Replacement Systems

Comment: One commenter felt that the regulations needed to address Federal funding for the replacement of currently certified systems.

Response: The alternative analysis conducted as part of planning phase activities must consider both the enhancement of the existing system and the transfer of a new system. If it is shown to be more cost-effective to replace rather than enhance the existing system, the State must make that choice. For additional information on this issue, see program instruction OCSE–AT–90–11.

In those instances where a certified system is approaching obsolescence, the transfer of a replacement system may prove to be the only feasible option available to the State. The alternative analysis conducted as part of the planning phase must consider both the enhancement of the existing system and the transfer of a new system. If the State can show through a cost-benefit assessment that it is more cost-effective to replace rather than enhance the existing system, enhanced funding may be available for all or part of the replacement system. However, if the original system was funded at the enhanced rate, a close-out review will be conducted under the provisions of §§ 307.30(d) and 307.40 to determine if the system has produced benefits consistent with the Federal investment.

Functional Requirements

Comment: One commenter expressed the belief that it was unfair to States with system development activities underway to make previously optional functions mandatory. The commenter believed that States had to be given the option to either waive these requirements or receive enhanced funding for their enhancements.

Response: The Family support Act of 1988 mandates that all States have a statewide data processing and information retrieval system which automates all functional requirements of the title IV–D program under section 454(16) of the Act. The Act also made mandatory the automation of the requirements found in the Child Support Enforcement Amendments of 1984 which were previously optional systems requirements. The purpose of these regulations and the mandatory system requirements that they support is to have States establish fully automated CSE systems. States which are currently in the process of developing automated systems are given the opportunity, in the development of an APD Update, to improve and enhance their current development efforts. To the extent that these upgrades are part of a system which is approvable for enhanced funding, the enhancements will be funded at the enhanced rate.

Monthly Notice of Collections

Comment: Two commenters who have Automated Voice Response Units (ARUs) expressed concern that they would be required to supply monthly written notices to any AFDC custodial parent that does not access the ARU during the month. They believed that such a requirement would negate the cost savings anticipated from using an ARU. In addition to the cost of the ARU, this requirement would necessitate the establishment of a tracking system to identify those households which did not access the information through the ARU. Another commenter suggested that the final regulations be strengthened to explicitly require that automated systems have the ability to generate monthly notices.

Response: The outcome of this issue is dependent on the final rule regarding monthly reporting of support collections under § 302.54, which is yet to be issued. The automated system will be required to support whatever requirements are established. These comments will be taken into consideration in the development of that final rule. The use of an ARU, however, has benefits other than those mentioned by the commenter. Specifically, there should be a significant amount of savings in staff time and a significantly higher level of service to custodial and noncustodial parents.

Compatibility of Systems

Comment: One commenter requested clarification of the requirement, found at § 307.10(b)(1), that the IV–D State Plan assure the " * * * compatibility with the systems of different jurisdictions to permit periodic screening to determine whether an individual is paying or is obligated to pay support in more than one jurisdiction * * *" The commenter stated that given the poor experience that his State had in developing a IV–A/IV–D interface, " * * * it would take a miracle to be able to ensure timely and reliable data exchange with any number of other jurisdictions using a variety of different systems."

Response: We agree that the language at the end of § 307.10(b)(1) is confusing and should not have been carried over into this rule. The language was originally included to mirror statutory language at section 454(16) of the Act. However, because throughout § 307.10 specific provisions are included to ensure that systems are sufficiently automated to address monitoring of support payments for intra- and interstate cases, the general provision from the statutory language is no longer necessary. Accordingly, in response to the comment, we have deleted this clause from § 307.10(b)(1) in this final rule.

However, with respect to the IV–A/IV–D interface concern, under this regulation State CSE systems must have the capability to interface with IV–A systems at the State level.

Comment: One commenter believed that § 307.10(b)(4)(ii), which requires States to maintain information pertaining to locate activities, would result in a costly tracking system from which little value would be gained. They believed that the emphasis should be placed on location rather than on the sources of data used for location.

Response: We do not agree with this commenter's views. The establishment of a 75-day standard within which to

locate an absent parent under § 303.3(b) places heavy emphasis on the outcome of locate activities. A tracking system: Allows for the monitoring of required activities; establishes a base for future locate activities; and provides a basis for funding of locate activities.

Comment: Three commenters asked that funding be provided to locate sources to allow them to automate their records. They stated that unless all locate sources are automated, the requirement that the IV–D agency use electronic linkages to receive locate information was meaningless.

Response: We have no legislative authority to pay for the automation of locate sources. To the extent that such sources are automated, the IV–D agency would be required to establish an electronic linkage. Where these sources are not automated, another means of referral would be required and would be acceptable.

Incentive Payments

Comment: One commenter noted that § 307.10(b)(6) seemed to be out-of-date because it made reference to intrastate and interstate incentives, when the program regulations make no such distinction.

Response: The commenter is correct. The language in the proposed regulation mirrors the language of section 454(16) of the Act, which was not revised to reflect changes made to section 458 of the Act by the Child Support Enforcement Amendments of 1984. We have updated the regulation to specify that systems must contain the data necessary for States to compute and distribute incentive payments to political subdivisions when they share in the cost of operating the program. Similarly, if a State chooses the option under § 303.52(a) to pay incentives to other subdivisions based on efficiency and effectiveness, the system must also contain the data necessary to compute and distribute incentive payments to those jurisdictions.

Cost Accounting

Comment: One commenter believed that § 307.10(b)(8), which requires States to maintain costs of all services rendered, established a difficult, if not impossible task for States that do not allocate staff exclusively to specific functions. They suggested that expenses be allocated on a formula basis, rather than having workers maintain specific time records.

Response: This requirement at § 307.10(b)(8) is not new. It mirrors language previously found at § 307.10(a)(2)(viii) and is derived from legislation. Section 454(16)(A)(iii) specifies that child support systems must control, account for, and monitor the costs of all services rendered, either directly or indirectly by interfacing with State financial management and expenditure information. Further, Public Law 98–378 established a requirement to collect information on the "amount of administrative costs expended in each functional category of expenditures by each State." Form OCSE–158 (formerly OCSE–56, part I), is an annual report which collects this data. The instructions for this form state: "The reporting of functional expenditures should be based on an approved (by the Regional Office) cost allocation plan, a timestudy, or a valid work sample." Since this requirement is legislatively mandated, it cannot be changed: States may, however, select the methodology they feel is appropriate to their operations to develop such expenditures. Whatever methodology is selected by the State and ultimately approved by the Regional Office would be incorporated in the system and applied to costs incurred for financial reporting purposes.

Program Standards

Comment: One commenter recommended that the regulations specifically state the timeframe for the IV–D agency to transmit collection information to the IV–A agency for the purpose of AFDC eligibility determination. Another commenter suggested that the regulations explicitly state that the system must track whether services have been provided and collections distributed in accordance with the 'timeframe regulations.' Several commenters were concerned that there was no requirement for review and clean-up of existing case data.

Response: We have chosen not to repeat the program standards timeframes in these regulations for the sake of simplicity. However, § 307.10(b)(15) requires systems to control, account for and monitor all the factors in the support collection and paternity determination process under the State plan including use of automated processes to assist the State in meeting State plan requirements under part 302 and Standards for Program Operations under part 303. As specifically discussed in the preamble to the proposed rule, this would include all mandated timeframes for taking action specified in the regulations.

Program regulations at § 302.32(b) state that the IV–D agency must inform the IV–A agency of monthly support collections received within 10 working days of the end of the month in which those collections were received by the IV–D agency responsible for final distribution. Since this is a State plan requirement under part 302, the requirement with respect to this regulation would be included under § 307.10(b)(15).

With respect to the latter comments, we agree that data clean-up is an ongoing program responsibility integral to systems implementation. In reviewing State implementation plans, OCSE will ensure that sufficient staff and time are allocated to this activity.

Interface Requirements

Comment: One commenter questioned the wording of the preamble language related to § 307.10(b)(9). Although the proposed regulations stated that the transfer of information from IV–A to IV–D would take the form of referral, the preamble language indicated that the IV–A agency would be establishing a case on the IV–D data base. The commenter did not believe that it was in the best interest of the IV–D agency to allow someone outside the agency to establish a case in the IV–D system.

Response: We agree that the language provided in the preamble to the proposed rule may have been confusing. The intent is to have an electronic referral which would automatically build a skeletal case on the IV–D database. The CSE caseworker would be alerted to the referral and would review the case to determine its status and consequent action.

Comment: Two commenters were concerned that the proposed regulations at § 307.10(b) (9), (10), (13) and (14) mandated that States develop an integrated database which would include IV–A, IV–D, IV–F and title XIX.

Response: We had no intention of requiring the development of a fully integrated data base for the above cited programs. States are required to interface through the electronic referral of information. The purpose of these requirements is to provide integrated services to clients, not to require the establishment of an integrated database.

Comment: Eight commenters did not understand the need for a IV–D/IV–F data exchange, particularly in those instances where the IV–F program was administered by the IV–A program, and a IV–A/IV–D interface already exists.

Response: We have revised the final rule to clarify that a State need not establish a direct systems interface between IV–D and IV–F if the IV–A and IV–F systems are integrated or electronically linked and the IV–A program forwards any required information to IV–D and to IV–F from IV–D. The existence of an automated

IV–A/IV–D interface and IV–A/IV–F interface is sufficient to satisfy this requirement.

Comment: Five commenters asked that the regulation be clarified to provide that the interface could be accomplished in other than an on-line mode.

Response: The Department never intended that all electronic data interchanges be accomplished in an on-line mode. The key is that the data exchange be accomplished through an electronic forum and that data be available on-line throughout the State. As indicated in response to a previous commenter, our intent is to insure the availability of data to all components associated with case activity, so that timely and complete data is available to the caseworker.

While computer to computer exchange would be the preferred, batch processing is an acceptable method of electronic data exchange. However, the exchange of information through batch processing must allow for the automatic update of the CSE system, without requiring the manual entry of the data received through the interface.

Comment: One commenter objected to the requirement found at § 307.10(b)(13) which requires States to develop an electronic data exchange to provide data to the State Medicaid system. They believed that this should be an option since adequate manual procedures exist to effect this data exchange.

Response: We do not agree. Automated exchange of information is more accurate, timely and efficient than manual processes. Since both the Medicaid and IV–D systems are automated, this exchange of information could be accomplished in a batch mode, as described above, but must be accomplished in an automated fashion.

Comment: Two commenters were very supportive of the electronic interchange requirements and believed that they would make case establishment and data transfer easier and more accurate than the current manual processes.

Response: We agree that electronic data exchange requirements provided in this regulation are must more efficient than the manual processes relied on in the past.

On-Line Wage Information

Comment: One commenter believed that clarifying information should be added at § 307.10(b)(15)(iii) regarding the exceptions which would be allowed to the requirement for placing wage information on-line. Their past attempts to accomplish this goal have not been met with the full cooperation of external agencies.

Response: The expectation is that in those instances where an automated interchange of wage information is possible, the information will be placed on-line for case worker access by establishing an electronic link or by obtaining an extract of the data base. To the best of our knowledge, all State wage reporting agencies are automated.

Electronic Funds Transfer

Comment: Four commenters recommended clarification of the proposed regulation at § 307.10(b)(15)(v) regarding whether the use of electronic funds transfer (EFT) technology was optional or mandated for States and/or for employers.

Response: An EFT requirement cannot be imposed on an employer; however, many have indicated to OCSE that they favor the use of standardized procedures and the opportunity to build wage withholding into their normal automated payroll process. Currently, the wage withholding process is cumbersome for employers and for States. Every State generally has it own set of requirements which employers must follow in submitting withholdings. We are currently developing procedures which would standardize the process, allowing States and employers to send and receive wage withholdings and related information electronically without manual processing.

The Department intended that State IV–D systems have the capability to automatically both accept EFT wage withholdings from those employers who choose to employ this type of technology, and to use EFT to transmit support collections. The use of EFT by States for the transfer of interstate collections should speed the availability of funds and provide more accurate data for input into initiating States' systems. We have revised the regulatory language to make clear that the requirement is that States have this capability not that States must utilize EFT in all situations.

Comment: Two commenters believed that EFT should be optional for both States and employers. One considered the receipt of EFT information by the automated system to be too sophisticated while the other thought that it would be burdensome for both small States and small employers.

Response: As indicated above, we have revised the final rule to clarify that States must have the capability to both accept EFT wage withholdings from those employers who choose to employ this type of technology, and to use EFT technology to transmit support collections to initiating States. While we do not have authority to require any employer to use EFT, we are currently conducting a pilot project which will assess the impact of EFT technology on a variety of different types and sizes of employers.

Given the procedures currently under development by the Department, the receipt of EFT information, including Electronic Data Interchange (EDI) information, to support the identification of a payment, would be no more difficult than receiving an input tape from any other source. Automated systems which States are implementing in response to the Family Support Act should be able to handle this type of information.

Interstate

Comment: Two comments addressed the proposed provision at § 307.10(b)(15)(vi) which requires the integration of all interstate cases into the CSE system. One commenter believed that the coordinated handling of interstate cases was crucial to their successful handling. Another thought the requirement would create unnecessary work in those instances where the request was only for locate assistance.

Response: We agree with the first commenter that coordinated handling of interstate cases is essential to successful processing. In fact, the requirement for integration of all interstate cases into the CSE system is not new to this regulation. It has been an on-going condition of system certification and enhanced funding. We believe it is essential that States not separate interstate case handling from the rest of the State's caseload in order to ensure consistent treatment of all IV–D cases. We believe this same rationale applies to interstate locate-only cases.

Approval of Advance Planning Documents

Comment: One commenter raised two issues regarding the requirement for a cost/benefit analysis found at § 307.15(b)(12). First, that the short timeframe for development of an APD made the development of a comprehensive cost/benefit analysis difficult; and second, that the cost of preparing a cost/benefit analysis would prove to a financial burden to States.

Response: Sound management practices require that a State agency perform a cost/benefit analysis of any proposed undertaking which would result in the expenditure of large amounts of funds. While it is true that each State must develop a statewide, comprehensive system, the requirement may be achieved through different system configurations. Performing a cost/benefit analysis will assist the

State in determining the most cost-effective approach to system acquisition, and will also allow the State and the Department to make projections on cost savings which will accrue to the system in accordance with 45 CFR part 95. Our experience indicates that the time and effort involved in conducting a comprehensive cost/benefit analysis is not a financial burden, but in fact provides opportunities for identifying cost savings.

Review and Certification of State Systems

Comment: One commenter questioned whether States would be able to request a pre-certification system review prior to installation at a pilot site. Conducting such a review prior to installation would allow changes to be made prior to placing the system into operation.

Response: OCSE conducts compliance reviews which can include an assessment of the software against the certification requirements. Compliance reviews are normally conducted at specific timeframes. However, a State may request such a review from OCSE at anytime.

Comment: One commenter questioned the language in the preamble which stated that the system should meet all functional requirements, be fully operational and include all active and inactive AFDC, non-AFDC, foster care, and interstate cases. They recommended that inactive cases not include closed cases.

Response: The Department never intended to require States to enter closed cases into their new automated system. However, under program regulations such cases must be stored in an easily retrievable manner for reference and audit purposes for three years.

Audit

Comment: Five commenters questioned the proposed requirement found at § 307.10(b)(16) which requires the State system to provide an automated process to allow OCSE to monitor operations and performance through audit. While the commenters agreed with the preamble language which discussed the need for State systems to be auditable, i.e., the retention for review of all case actions in a complete and accurate history file, they questioned the need for States to have the capacity within their systems to conduct the audit. The preamble language suggested several types of software packages which could be used to fulfill the audit requirement. These commenters believed that OCSE, rather than States, should be purchasing such software to fulfill its oversight responsibilities.

Response: The intent of the requirement is that State systems be "auditable," not that such systems be capable of actually performing the audit. As discussed in the preamble to the proposed rule, each State must ensure that all current and historical information and data (including but not limited to program, financial and statistical data) produced by the system must be kept in a logical sequence, which is readily accessible in a timely manner, for the purpose of the audit conducted under section 452 of the Act.

OCSE does encourage States to perform internal evaluations as part of their management process to allow monitoring of operations and assessment of performance. It appears logical that software could have a self-assessment module.

90% Funding

Comment: Several comments suggested that 90% funding be made available for system activities generally outside the scope of enhanced funding. One commenter believed that optical disk imaging, when integrated with case management information, should be considered for funding at the enhanced rate. Others suggested that certain on-going program responsibilities such as data clean-up and training should be matched at the enhanced funding rate.

Respone: Costs of office automation and ongoing program responsibilities do not constitute expenditures for "the planning, design, development, installation or enhancement" of a computerized child support system under part 307 and thus are not available for funding at the enhanced rate. However, Federal funding at the regular rate is available for these activities.

Regulatory Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a major rule because it will not have an annual impact on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions, or otherwise meet the thresholds of the Executive Order. Fifty-three States and territories have already submitted plans indicating their intent to implement CSESs. Costs of upgrades necessary to meet this rule for those States combined with the costs of the remaining States in implementing this proposal would not have an annual impact on the economy of $100 million or more.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act (Pub. L. 96-354) which requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities, the Secretary certifies that this rule has no significant effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Part 205

Computer technology, Grant programs—social programs, Privacy, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 250

Aid to Families with Dependent Children, Grant programs—social programs, Employment, education and training.

45 CFR Part 302

Child support, Grant programs—social programs, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 304

Child support, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 307

Child support, Grant programs—social programs, Computer technology, Reporting and record-keeping requirements.

(Catalog of Federal Domestic Assistance Program No. 93.023, Child Support Enforcement Program.)

Dated: May 20,1992.

Jo Anne B. Barnhart,

Assistante Secretary, Administration for Children and Families; Director, Office of, Child Support Enforcement.

Approved: June 18, 1992.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR parts 205, 250, 302, 304 and 307 are amended as set forth below.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. The authority citation for part 205 continues to read as follows:

Authority: 42 U.S.C. 602, 603, 606, 611, 1302, and 1306(a).

2. Section 205.36 is amended by revising the word "automatic" to read "automated' in the introductory text; by redesignating paragraph (c) as (d); and by adding a new paragraph (c) to read as follows:

§ 205.36 State plan requirements.

* * * * *

(c) To electronically refer and exchange information with programs under titles IV–D and IV–F for purposes of assuring that benefits and services are provided in an integrated manner.

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PART 250—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

1. The authority citation for part 250 is revised to read as follows:

Authority: 42 U.S.C. 602, 603, 681, 682, 682 note, 683 through 687, and 1302.

2. Section 250.81 is amended by revising paragraph (a) to read as follows:

§ 250.81 State data systems options.

(a) A State IV–A agency may integrate its JOBs Automated System (JAS) with an existing or planned title IV–A system. A State IV–A agency may also use a stand-alone system. Either option must be a client-based information system capable of:

(1) Producing at a minimum all data elements required in § 250.82; and

(2) Accepting referrals and exchanging data electronically with the title IV–A automated system and, the title IV–D automated system unless this exchange is otherwise met through the interface with the IV–A system.

* * * * *

PART 302—STATE PLAN REQUIREMENTS

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2.–3. Section 302.85 is revised to read as follows:

§ 302.85 Mandatory computerized support enforcement system.

(a) *General.* The State plan shall provide that, if the State did not have in effect, by October 13, 1988, a computerized support enforcement system that meets the requirements in § 307.10 of this chapter, the State will:

(1) By October 1, 1991, submit to the Secretary an advance planning document (APD) or APD update in accordance with § 307.5 of this chapter; and

(2) By October 1, 1995, have in effect and approved by the Secretary, a certified operational computerized support enforcement system in accordance with § 307.5 and § 307.10 of this chapter and the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States." This guide is available from the Office of Child Support Information Systems, ACF, 370 L'Enfant Promenade, SW., Washington, DC 20047.

(b) *Waiver*—(1) *Request for waiver.* The State may apply for a waiver of any condition for initial approval of an APD in § 307.15(b) of this chapter, or any system functional requirement in § 307.10 of this chapter, by the submission of a request for waiver under § 307.5 of this chapter.

(2) *Basis for granting waiver.* The Secretary will grant a State a waiver if a State demonstrates that it has an alternative approach to APD requirements or an alternative system configuration, as defined in § 307.1 of this chapter, that enables the State, in accordance with part 305 of this chapter, to be in substantial compliance with all other requirements of this chapter; and either:

(i) The waiver request meets the criteria set forth in section 1115(c)(1), (2) and (3) of the Act; or

(ii) The State provides written assurances that steps will be taken to otherwise improve the State's Child Support Enforcement program.

PART 304—FEDERAL FINANCIAL PARTICIPATION

1. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Section 304.20 is amended by adding "Until September 30, 1995," at the beginning of paragraph (c).

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

1. The authority citation for part 307 is revised to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666, 667, and 1302.

2.–3. Section 307.0 is revised to read as follows:

§ 307.0 Scope of this part.

This part implements sections 452(d) and (e), 454(16) and (24), and 455(a)(1)(A) and (B) of the Act which prescribe:

(a) The requirement for computerized support enforcement systems;

(b) The functional requirements that a statewide computerized support enforcement system must meet;

(c) The criteria the Office must determine exist prior to approving an advance planning document (APD);

(d) The requirements and procedures for the submittal of an APD;

(e) The requirement for continuous review of each approved statewide computerized support enforcement system;

(f) The availability of FFP at the 90 percent rate;

(g) The availability of FFP at the applicable matching rate; and

(h) The conditions under which the Office will suspend approval of an APD.

4. Section 307.1 is revised to read as follows:

§ 307.1 Definitions.

(a) *Alternative approach to APD requirements* means that the State has developed an APD that does not meet all conditions for APD approval in § 307.15(b) resulting in the need for a waiver under § 307.5.

(b) *Alternative system* means the separate manual and/or automated processes that perform one or more of the required functions separately from the base system and that interfaces with the base system to ensure that the State can meet all requirements for purposes of the audit prescribed in section 403(h) of the Act. These separate processes may involve geographic areas, such as counties; administrative jurisdictions, such as courts; or separate means by which the State meets particular program requirements, e.g., collection of support for non-AFDC cases.

(c) *Alternative system configuration* means an alternative to a comprehensive computerized support enforcement system. It includes a base system with electronic linkages to an alternative system(s), which is not part of the State's computerized support enforcement project (i.e., not the State's sole system effort), but which is necessary to meet the functional requirements of the statewide, comprehensive computerized support enforcement system under § 307.10.

(d) *Base system* means the hardware, operational software, applications software and electronic linkages in an alternative system configuration which allow the State to monitor, account for and control all support enforcement services and activities under the State plan.

(e) *Certification* means approval of an operational computerized support enforcement system based on a determination that the system has an

efficient and effective design and is comprehensive, except where a waiver applies.

(f) *Comprehensive* means that a computerized support enforcement system meets the requirements prescribed in § 307.10 of this part, as further defined in the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States."

(g) *Computerized support enforcement system* means a comprehensive, statewide system or an alternative system configuration which encompasses all political subdivisions within the State and which effectively and efficiently;

(1) Introduces, processes, accounts for and monitors data used by the Child Support Enforcement program in carrying out activities under the State plan; and

(2) Produces utilization and management information about support enforcement services as required by the State IV–D agency and Federal government for program administration and audit purposes.

(h) *Planning* means: (1) The preliminary project activity to determine the requirements necessitating the project, the activities to be undertaken, and the resources required to complete the project;

(2) The preparation of an APD;

(3) The preparation of a detailed project plan describing when and how the computer system will be designed or transferred and adapted; and

(4) The preparation of a detailed implementation plan describing specific training, testing, and conversion plans to install the computer system.

(i) The following terms are defined at 45 CFR part 95, subpart F, in § 95.605:

"Advance Planning Document";
"Annually Updated APD";
"Design" or "System Design";
"Development";
"Enhancement";
"Implementation Advance Planning Document";
"Initial APD";
"Installation";
"Operation";
"Planning Advance Planning Document";
"Requirements Analysis"; and
"Software".

(j) The definitions found in § 301.1 of this chapter are also applicable to this part.

5. Section 307.5 is added to read as follows:

§ 307.5 Mandatory computerized support enforcement systems.

(a) *Basic requirement.* By October 1, 1995, each State must have in effect an operational computerized support enforcement system, which is certified.

(b) *APD requirements.* By October 1, 1991, each State must submit an APD or APD update that meets the conditions set forth in § 307.15 for review and approval by the Secretary.

(c) *Waiver option.* A State may apply for a waiver of any functional requirement in § 307.10 by presenting a plan for an alternative system configuration, or a waiver of any conditions for APD approval in § 307.15(b) by presenting an alternative approach. Waiver requests must be submitted and approved as part of the State's APD or APD update.

(d) *Conditions for waiver.* The Secretary may grant a State a waiver if:

(1) The State demonstrates that it has an alternative approach to the APD requirements or an alternative system configuration that enables the State, in accordance with part 305 of this chapter, to be in substantial compliance with the other requirements of this chapter; and either:

(2) The waiver request meets the criteria set forth in section 1115(c)(1), (2) and (3) of the Act; or

(3) The State provides written assurance that steps will be taken to otherwise improve the State's Child Support Enforcement program.

(e) *APD submittal requirements for alternative system configuration.* APDs submitted by States which include requests for waiver for an alternative system configuration must, in addition to meeting conditions of § 307.15(b):

(1) Describe the State's base system;

(2) Include a detailed description of the separate automated or manual processes the State plans to use and how they will interface with the base system;

(3) Provide documentation that the alternative system configuration will enable the State to be in substantial compliance with title IV–D of the Act in accordance with section 403(h) of the Act and implementing regulations. In addition, if the State is subject to a Notice under § 305.99 of this part that it did not substantially comply with one or more of the requirements of title IV–D of the Act, at the time a waiver request is submitted, the State must:

(i) Demonstrate that the deficiency is not related to or caused by the performance of the system; or

(ii) Specify the corrective action taken to modify the system if the system contributed to the deficiency.

(f) *APD submittal requirements for alternative approach.* APDs submitted by States which include requests for waiver of conditions for APD approval in § 307.15(b) must demonstrate why meeting the conditions is unnecessary or inappropriate.

(g) *Review of waiver requests.* (1) The Office will review waiver requests to assure that all necessary information is provided, that all processes provide for effective and efficient program operation, and that the conditions for waiver in paragraph (d) of this section are met.

(2) When a waiver is approved, it becomes part of the State's approved APD. A waiver is subject to the APD suspension provisions in § 307.40.

(3) When a waiver is disapproved, the APD will be disapproved. The APD disapproval is a final administrative decision and is not subject to administrative appeal.

(h) *FFP limitations.* (1) The provisions of §§ 307.30 and 307.35 apply to requests for FFP for costs of computerized support enforcement systems.

(2) FFP for alternative system configurations is further limited as follows:

(i) FFP is available at the enhanced matching rate for development of the base system and for hardware, operational system software, and electronic linkages with the separate components of an alternative system configuration.

(ii) FFP is available at the applicable matching rate for minor alterations to the separate automated or manual processes that are part of an alternative system configuration and for operating costs including hardware, operational software and applications software of a computerized support enforcement system.

(iii) FFP is not available for developing new systems or making major changes and enhancements to separate automated or manual processes so that alternative system configurations meet conditions for waiver.

6. Section 307.10 is revised to read as follows:

§ 307.10 Functional requirements for computerized support enforcement systems.

At a minimum, each State's computerized support enforcement system established under the title IV-D State plan at § 302.85 of this chapter must:

(a) Be planned, designed, developed, installed or enhanced in accordance

with an initial and annually updated APD approved under § 307.15; and

(b) Control, account for, and monitor all the factors in the support collection and paternity determination processes under the State plan. At a minimum this must include:

(1) Maintaining identifying information such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal zip codes) on individuals against whom support obligations are sought to be established or enforced and on individuals to whom support obligations are owed, and other data as required by the Office;

(2) Periodically verifying the information on individuals referred to in paragraph (b)(1) of this section with Federal, State and local agencies, both intrastate and interstate;

(3) Maintaining data necessary to meet Federal Reporting Requirements on a timely basis as prescribed by the Office:

(4) Maintaining information pertaining to:

(i) Delinquency and enforcement activities;

(ii) Intrastate, interstate and Federal location of absent parents;

(iii) The establishment of paternity; and

(iv) The establishment of support obligations;

(5) Collecting and distributing both intrastate and interstate support payments;

(6) Computing and distributing incentive payments to political subdivisions which share in the cost of funding the program and to other political subdivisions based on efficiency and effectiveness if the State has chosen to pay such incentives;

(7) Maintaining accounts receivable on all amounts owed, collected, and distributed;

(8) Maintaining costs of all services rendered, either directly or by interfacing with State financial management and expenditure information;

(9) Accepting electronic case referrals and update information from the State's title IV-A program and using that information to identify and manage support enforcement cases;

(10) Transmitting information electronically to provide data to the State's AFDC system so that the IV-A agency can determine (and report back to the IV-D system) whether a collection of support causes a change in eligibility for, or the amount of aid under, the AFDC program;

(11) Providing security to prevent unauthorized access to, or use of, the data in the system;

(12) Providing management information on all IV–D cases under the State plan from initial referral or application through collection and enforcement;

(13) Providing electronic data exchange with the State Medicaid system to provide for case referral and the transfer of the medical support information specified in 45 CFR 303.30 and 303.31;

(14) Providing electronic data exchange with the State IV–F program for purposes of assuring that services are furnished in an integrated manner unless the requirement is otherwise met through the exchange conducted under paragraph (b)(9) of this section;

(15) Using automated processes to assist the State in meeting State plan requirements under part 302 of this chapter and Standards for program operations under part 303 of this chapter, including but not limited to:

(i) The automated maintenance and monitoring of accurate records of support payments;

(ii) Providing automated maintenance of case records for purposes of the management ant tracking requirements in § 303.2 of this chapter;

(iii) Providing title VI–D case workers with on-line access to automated sources of absent parent employer and wage information maintained by the State when available, by establishing an electronic link or by obtaining an extract of the data base and placing it on-line for access throughout the State;

(iv) Providing locate capability by automatically referring cases electronically to locate sources within the State (such as State motor vehicle department, State department of revenue, and other State agencies), and to the Federal Parent Locator Service and utilizing electronic linkages to receive return locate information and place the information on-line to title IV–D case workers throughout the State;

(v) Providing capability for electronic funds transfer for purposes of income withholding and interstate collections;

(vi) Integrating all processing of interstate cases with the computerized support enforcement system, including the central registry; and

(16) Providing automated processes to enable the Office to monitor State operations and assess program performance through the audit conducted under section 452(a) of the Act.

7. Section 307.15 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 307.15 Approval of advance planning documents for computerized support enforcement systems.

(a) *Approval of an APD.* The Office shall not approve the APD and annually updated APD unless the document, when implemented, will carry out the requirements of § 307.10 of this part. Conditions for APD approval are specified in this section.

(b) *Conditions for initial approval.* In order to be approvable, an APD for a statewide computerized support enforcement system described under § 307.10 must meet the following requirements:

(1) The APD must represent the sole systems effort being undertaken by the State in accordance with § 307.10. If the State is requesting a waiver under § 302.85 of this chapter, the APD must specify the conditions for which waiver is requested;

(2) The APD must specify how the objectives of the computerized support enforcement system in § 307.10 will be carried out throughout the State; this includes a projection of how the proposed system will meet the functional requirements of § 307.10 and how the single State system will encompass all political subdividions in the State by October 1, 1995;

(3) The APD must assure the feasibility of the proposed effort and provide for the conduct of a requirements analysis study which address all system components within the State and includes consideration of the program mission, functions, organization, services and constraints related to the computerized support enforcement system;

(4) The APD must indicate how the results of the requirements analysis study will be incorporated into the proposed system design, development, installation or enhancement;

(5) The APD must contain a description of each component within the proposed computerized support enforcement system as required by § 307.10 and must describe information flows, input data, and output reports and uses;

(6) The APD must describe the security requirements to be employed in the proposed computerized support enforcement system;

(7) The APD must describe the intrastate and interstate interfaces set forth in § 307.10 to be employed in the proposed computerized support enforcement system;

(8) The APD must describe the projected resource requirements for staff, hardware, and other needs and the resources available or expected to be available to meet the requirements;

(9) The APD must contain a proposed budget including a description of estimated expenditures by category and amount for:

(i) Items that are eligible for Federal funding at the 90 percent rate; and

(ii) Items related to developing and operating the system that are eligible for Federal funding at the applicable matching rate;

(10) The APD must contain an implementation plan and backup procedures to handle possible failures in system planning, design, development, installation or enhancement;

(11) The APD must describe each system considered during planning including the advantages of selecting the proposed solution. If a transfer system is not selected as the proposed solution, a transfer system must be among those systems considered. If a system that is already in place in the State could be enhanced to meet the requirements for a computerized support enforcement system, that system must be among the solutions considered;

(12) The APD must contain a cost benefit analysis of the proposed computerized support enforcement system and all alternatives considered that describes the proposed improvements to the IV–D program in both qualitative and quantitative terms;

(13) The APD must specify the basis for determining direct and indirect costs of the computerized support enforcement system during development and operation, including the methodology for determining costs of planning, design, development, installation or enhancement that are eligible for 90 percent Federal funding versus costs of development and operations that are eligible for Federal funding at the applicable matching rate;

(14) The APD must contain a statement indicating the period of time the State expects to use the proposed computerized support enforcement system; and

(15) The APD must include any waiver requested in accordance with § 307.5 of this chapter.

* * * * *

§ 307.20 [Amended]

8. Section 307.20 is amended by removing the words "eligible for 90 percent FFP" in the heading.

9. Section 307.25 is revised to read as follows:

§ 307.25 Review and certification of computerized support enforcement systems.

The Office will review, assess and inspect the planning, design, development, installation, enhancement and operation of computerized support enforcement systems developed under § 307.10 to determine the extent to which such systems:

(a) Meet the requirements found in § 307.15; and

(b) Can be certified as meeting the requirements described in § 307.10 and in the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States".

10. Section 307.30 is amended by revising the heading and paragraphs (a) and (b) to read as follows:

§ 307.30 Federal financial participation at the 90 percent rate for statewide computerized support enforcement systems.

(a) *Conditons that must be met for FFP.* Until September 30, 1995, Federal financial participation is available at the 90 percent rate in expenditures for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in §§ 307.5 and 307.10 if:

(1) The Office has approved an APD in accordance with § 307.15 of this part;

(2) The system meets the requirements specified in § 307.10;

(3) The Office determines that the expenditures incurred are consistent with the approved APD;

(4) The Office determines that the computerized support enforcement system or alternative system configuration is designed effectively and efficiently and will improve the management and administration of the State IV–D plan;

(5) The State IV–D agency agrees in writing to use the system for a period of time which is consistent with the APD approved by the Office; and

(6) The State or local government has ownership rights in software, software modifications and associated documentation that is designed, developed, installed, or enhanced with 90 percent FFP under this section subject to the Department of Health and Human Services license specified in paragraph (c) of this section.

(b) *Reimbursement of hardware and proprietary software.* (1) Until September 30, 1995, FFP at the 90 percent rate is available for expenditures for the rental or purchase of hardware for the planning, design, development, installation, enhancement or operation of a computerized support enforcement system as described in § 307.10.

(2) Until September 30, 1995, FFP a the 90 percent rate is available for expenditures for the rental or purchase of proprietary operating/vendor software necessary for the operation of hardware during the planning, design, development, installation, enhancement or operation of a computerized support enforcement system in accordance with the OSCE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States." FFP at the 90 percent rate is not available for proprietary application software developed specifically for a computerized support enforcement system. (See § 307.35 regarding reimbursement at the applicable matching rate.)

* * * * *

11. Section 307.35 is amended by revising paragraph (a) to read as follows:

§ 307.35 Federal financial participation at the applicable matching rate for computerized support enforcement systems.

* * * * *

(a) The operation of a system that meets the requirements specified in § 307.10 if the conditions for APD approval in §§ 307.5 and 307.15 are met; or

* * * * *

12. Section 307.40 is amended by revising the heading and paragraph (a)(1) to read as follows:

§ 307.40 Suspension of approval of advance planning documents for computerized support enforcement systems.

(a) *Suspension of approval.* (1) The Office will suspend approval of the APD for a computerized support enforcement system approved and developed under § 307.10 as of the date that the system ceases to comply substantially with the criteria, requirements, and other provisions in the APD, including conditions in § 307.15(b) and the requirements in § 307.10 of this part covered under a waiver granted in accordance with § 307.5. Federal funding will be disallowed as described in § 307.30(d).

* * * * *

[FR Doc. 92–24603 Filed 10–13–92; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 92-447]

Forfeiture Proceedings

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission is bringing the forfeiture rules up-to-date to be consistent with the 1990 statutory change that amended section 503(b)(5) of the Communications Act of 1934. The intended effect is to clarify that applicants may be subject to a forfeiture without a prior citation.

EFFECTIVE DATE: October 14, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas Cooper, Office of General Counsel, Federal Communications Commission (202) 632-6990.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of § 1.80(d) of the Commission's Rules; Order

Adopted: September 18, 1992.

Released: October 6, 1992.

By the Commission:

1. In 1990, Congress amended section 503(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. section 503(b)(5), to clarify that applicants may be subject to a forfeiture without a prior citation.[1] By this Order we amend 47 CFR 1.80 paragraph (d) to reflect the amended statute.

2. The change to § 1.80 paragraph (d) of 47 CFR adopted herein merely restates in our rules the statutory language of 47 U.S.C. section 503(b)(5). Therefore, the Commission for good cause finds that compliance with the notice and comment and effective date provisions of the Administrative Procedure Act is unnecessary. See 5 U.S.C. sections 553(b)(B), 553(d)(3).

3. Accordingly, pursuant to sections 4(i), 303(r) and 503(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303(r), 503(b)(5), *it is ordered* That 47 CFR 1.80(d) is amended as set forth in the Amendatory Text, effective upon publication in the **Federal Register.**

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 1

Penalties.

Amendatory Text

Part 1 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement. 5 U.S.C. 552, unless otherwise noted.

2. Section 1.80 is amended by revising paragraph (d) introductory text to read as follows:

§ 1.80 Forfeiture proceedings

* * * * *

(d) *Preliminary procedure in some cases; citations.* No forfeiture penalty shall be imposed upon any person under this section, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, and if such person is not an applicant for a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the issuance of the appropriate notice, such person: * * *

* * * * *

[FR Doc. 92-24812 Filed 10-13-92; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Law 101-396, 104 Stat. 851, enacted September 28, 1990. The use of the word "citation" only means that a warning of a violation has been issued and not that the person has been adjudicated to have engaged in any misconduct.

47 CFR Part 73

[MM Docket No. 92-3; RM-7874; RM-7958]

Radio Broadcasting Services; Prineville and Sisters, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Danjon, Inc., dismisses the proposal to allot Channel 284A to Prineville, Oregon, as the community's second local FM allotment. See 57 FR 2884, January 24, 1992. At the request of Schuyler H. Martin, the Commission substitutes channel 281C1 for Channel 281A at Sisters, Oregon, and modifies Station KPXA's construction permit to specify operation on the higher class channel. Channel 281C1 can be allotted to Sisters in compliance with the Commission's minimum distance separation requirements with a site restriction of 30 kilometers (18.4 miles) southeast to accommodate petitioner's desired transmitter site, at coordinates North Latitude 44-04-40 and West Longitude 121-19-52. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 20, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-3, adopted September 17, 1992, and released October 7, 1992. 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, 1990 M Street, NW., suite 640, 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 Oregon, is amended by removing Channel 281A and adding Channel 281C1 at Sisters.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92-24813 Filed 10-13-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-127; RM-6577; RM-7537; RM-7762]

Radio Broadcasting Service; Georgetown, Kiawah Island, Moncks Corner, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Cedar Carolina Limited Partnership, substitutes Channel 287C3 for Channel 288A at Moncks Corner, South Carolina, and modifies the license of Station WJYQ to specify operation on the higher powered channel. The

Commission also denies the requests of Cedar Carolina Limited Partnership to either substitute Channel 288C2 for Channel 288A at Moncks Corner and reallot Channel 288C2 to Kiawah Island South Carolina, or to substitute Channel 287C2 for Channel 288A at Moncks Corner. At the request of Coastline Communications of Carolina, Inc., the Commission substitutes Channel 249C1 for Channel 249C2 at Georgetown, South Carolina, and modifies the license of Station WBPR to specify operation on the higher powered channel. Channel 287C3 can be allotted to Moncks Corner in compliance with the Commission's minimum distance separation requirements with a site restriction of 20 kilometers (12.4 miles) southeast to avoid a short-spacing to Station WRHA, Channel 286A, Johnsonville, South Carolina, at coordinates North Latitude 33–03–00 and West Longitude 79–53–00. Channel 249C1 can be allotted to Georgetown with a site restriction of 35 kilometers (21.8 miles) northeast to accommodate petitioner's desired transmitter site, at coordinates 33–35–27; 79–00–50. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 20, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91–127, adopted September 22, 1992, and released October 7, 1992. The full text of this Commission decisions 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, 1990 M Street, NW., suite 640, 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 South Carolina, is amended by removing Channel 249C2 and adding Channel 249C1 at Georgetown and by removing Channel 288A and adding Channel 287C3 at Moncks Corner.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–24814 Filed 10–13–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

Radio Broadcasting Services; Various Locations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Register summary for this Report and Order in 57 FR 44338 (September 25, 1992), did not include an effective date. The effective date is September 25, 1992.

EFFECTIVE DATE: September 25, 1992.

FOR FURTHER INFORMATION CONTACT: Michael Ruger, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–24870 Filed 10–13–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking by Ford Motor Company (Ford) asking that the "one car credit" provision, currently scheduled to expire September 1, 1993, be extended for one additional year, so that it would remain in effect until September 1, 1994. The "one car credit" provision allows a vehicle to be counted as complying with the requirement for automatic crash protection if it offers an air bag at the driver's position and a crash-tested manual lap/shoulder belt at the right front passenger's position. When the "one car credit" provision was originally established, Standard No. 208 gave manufacturers an option of installing any type of automatic crash protection, such as air bags or automatic belts. The "one car credit" provision was intended to encourage manufacturers to choose to install air bags instead of automatic belts. Since there is now a statutory requirement that cars be equipped with air bags by the late mid-1990's, the agency has concluded that there is no need to extend the provision offering regulatory encouragement to manufacturers to install air bags. Therefore, Ford's petition is denied.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, Frontal Crash Protection Division, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Cohen can be reached by telephone at (202) 366–2264.

SUPPLEMENTARY INFORMATION:

Background

Standard No. 208, *Occupant Crash Protection* (49 CFR § 571.208) currently requires that all cars be equipped with automatic crash protection. Vehicle seating positions equipped with automatic crash protection protect their occupants by means that require no action by the occupants. The effectiveness of a vehicle's automatic crash protection is dynamically tested; that is, a vehicle must comply with specified injury criteria, as measured on a test dummy, when tested by this agency in a 30 miles per hour barrier crash test. At this time, manufacturers are free to choose any means of automatic crash protection they wish, provided only that the means selected provides the specified protection in the barrier crash test. The means of automatic crash protection that have been chosen by manufacturers for installation in passenger cars in response to this requirement are automatic belts and air bags.

When the agency issued a rule establishing the automatic crash protection requirement in the mid-1980's, it was concerned that the overwhelming majority of vehicles would comply with the automatic crash protection requirement by means of automatic belts. This concern arose because automatic belts cost less than air bags and are far less technically innovative. In addition, the agency believed that air bags and manual lap/shoulder belts would provide greater safety benefits than automatic belts. Accordingly, the agency concluded it was necessary to provide an incentive for manufacturers to choose to install air bags instead of

automatic belts in response to the automatic crash protection requirement.

The incentive chosen to encourage manufacturers to install air bags was a credit provision. The automatic crash protection requirement generally specifies that vehicles must provide this automatic protection at both the driver's and the front right passenger's positions. Cars supplying air bags for both these positions could be counted as 1.5 cars equipped with automatic crash protection during the phase-in of the automatic crash protection requirement for cars. The more widely used provision, the "one car credit" provision, treats a car as complying with the automatic crash protection requirement if it has an air bag at its driver's position and a dynamically-tested manual lap/shoulder belt at its front right passenger's position. Since this "one car credit" would reduce the difference in initial costs and engineering efforts associated with installing air bags instead of automatic belts, the agency believed it would encourage more widespread installation of air bags than would otherwise have been the case.

However, the agency recognized that the "one car credit" provision should not continue in effect indefinitely. At some point, the provision would cease to be an encouragement for manufacturers to choose air bags instead of automatic belts, and would instead become a way for manufacturers to provide automatic crash protection at only one instead of two seating positions. Thus, NHTSA undertook a careful review of all available information to determine when the "one car credit" provision should terminate. Based upon that review, the agency determined that the "one car credit" provision should not be available for cars manufactured on or after September 1, 1993. The agency's decision to provide the "one car credit" provision until September 1, 1993 was affirmed by a unanimous panel of the United States Court of Appeals for the District of Columbia Circuit; *Public Citizen* v. *Steed*, 851 F.2d 444 (D.C. Cir. 1988).

The option of installing air bags instead of automatic belts will cease in the late mid-1990's under the "Intermodel Surface Transportation Efficiency Act of 1991" (ISTEA), which was signed by President Bush into law on December 18, 1991 (Pub. L. 102–240). ISTEA is intended to develop a national intermodel surface transportation system and sets forth guidance and mandates for several different model administrations within the Department of Transportation. Sections 2500–2509 of ISTEA are called the "National Highway Traffic Safety Administration Authorization Act of 1991." These sections authorize appropriations for the agency for fiscal years 1992 through 1995 and direct the agency to take certain actions.

Section 2508 of this Act requires NHTSA to issue, not later than September 1, 1993, a final rule making certain amendments to Standard No. 208. Section 2508 eliminates the manufacturers' opportunity to choose between air bags and automatic belts. Beginning in the late mid-1990's, this section requires that automatic crash protection must be provided by installing inflatable restraint (i.e., an air bag) at both front outboard seating positions in all passenger cars and light trucks, and that the seating positions protected by an air bag shall also be equipped with a lap/shoulder belt.

Ford's Petition

Ford filed a petition for rulemaking, dated June 2, 1992, that asked the agency to extend the "one car credit" provision until September 1, 1994. Ford's request was based upon the circumstances of its Ford Tempo and Mercury Topaz lines. Ford currently offers these cars with automatic belts for the driver and front seat passenger as standard equipment. However, Ford offers consumers the option of ordering a driver's side air bag and manual lap/shoulder belts at the front outboard seating positions in place of the automatic belts.

Ford intends to replace the Tempo/Topaz lines with a new vehicle that will be equipped with driver and passenger air bags as standard equipment. This replacement vehicle will not be available by the September 1, 1993 expiration of the "one car credit" provision. Thus, Ford will continue to manufacture the Tempo/Topaz lines after September 1, 1993. Ford would like to continue to offer consumers the driver's side air bag and manual lap/shoulder belts as an option for the Tempo/Topaz lines until September 1, 1994. It will not be able to do so, however, unless the "one car credit" provision is extended until that time.

Ford indicated that it has explored alternative means that would allow it to continue offering a driver's air bag as an option on its Tempo/Topaz lines. According to Ford, the only practicable approach would be to provide a driver air bag with manual lap/shoulder belt for the driver and an automatic belt for the passenger. However, Ford concluded that such a system "would not be as well accepted by safety-conscious consumers as today's systems." Ford also noted that no vehicle manufacturer has yet offered a mixed system of automatic crash protection, i.e., air bag and manual lap/shoulder belt at one position and automatic belt at the other position, and suggested that this shows that other manufacturers share Ford's concern about the likely lack of customer acceptance of mixed systems. Thus, Ford asserted that the only means by which it could continue to offer the option of a driver's air bag on its Tempo/Topaz lines is for NHTSA to extend the "one car credit" provision for one additional year.

NHTSA notes parenthetically that Ford's assertion that no vehicle manufacturer has yet offered a mixed system of automatic crash protection is incorrect. The 1988 Dodge Daytona offered an air bag and annual lap/shoulder belt at the driver's position and an automatic belt at the passenger's position.

Ford argued that its requested one year extension of the "one car credit" would be consistent with NHTSA's efforts to enhance motor vehicle safety. According to Ford, "preliminary estimates suggest that cars equipped with driver-side air bags provide approximately equivalent overall safety to cars with driver and passenger motorized automatic belts." Further, Ford argued that very few cars would be affected by a one year extension of the "one car credit" provision, because it would not likely be practicable for manufacturers that don't already offer an optional driver's air bag to convert their cars to take advantage of a one year extension. Finally, Ford argued that a one year extension of the "one car credit" would be consistent with the provisions of section 2508.

Agency Response

In considering Ford's petition, the agency has reviewed the reasoning underlying its announcement in its 1987 final rule (52 FR 10096; March 30, 1987) and denial of petition for reconsideration (52 FR 42440; November 5, 1987) that the "one car credit" provision would expire on September 1, 1993. The agency explained then that this leadtime period was sufficiently long enough to encourage manufacturers to use air bags to comply with the automatic crash protection requirement, by permitting them to install a driver's air bag in vehicles and allowing additional time to resolve the technical issues that were then associated with passenger-side air bags. However, the agency also decided that this leadtime period should serve as an incentive to manufacturers to install passenger-side air bags in their cars as quickly as

possible. 52 FR 42443; November 5, 1987. The only reason for NHTSA to consider extending the "one car credit" provision for another year at this late date would be if there were some evidence that the leadtime allowed for the "one car credit" was inadequate to encourage manufacturers to choose to install air bags or that the leadtime was insufficient to allow manufacturers to install passenger-side air bags. Ford's petition provides no such evidence.

The record shows that the leadtime allowed by the "one car credit" was highly successful at encouraging manufacturers to install air bags instead of automatic belts. In March 1987, when the final rule extending the "one car credit" until September 1, 1993 was published, only a few manufacturers offered air bags on their cars, and the models equipped with air bags were generally expensive. After the "one car credit" was announced, nearly all manufacturers began offering driver's air bags on at least some of their models in all price ranges. Further, passenger-side air bags are now offered on a number of vehicles, including the Ford Taurus/Sable lines and all of its Lincoln lines. Manufacturers including Ford have announced that many other vehicles will be equipped with passenger-side air bags by the scheduled expiration of the "one car credit" on September 1, 1993. Hence, there is no indication that an extension of the "one car credit" is needed to encourage manufacturers to offer air bags or that the period provided for the "one car credit" was too short to allow manufacturers to install passenger-side air bags.

In addition, the statutory mandate in section 2508 of ISTEA that all new passenger cars be equipped with driver and passenger air bags by September 1, 1997 appears to eliminate the need for any additional regulatory encouragement of air bags. That is, there is no reason to include special provisions in the agency's regulations to encourage persons to do something that Federal law will affirmatively require them to do. Hence, the agency concludes that the "one car credit" provision will have served its intended purpose when it expires as scheduled September 1, 1993, and that any further extension of the "one car credit" would no longer serve that intended purpose.

Ford's petition did not suggest that there was some industry-wide problem regarding the scheduled expiration of the "one car credit." Instead, Ford's petition suggested that it had a problem with respect to two of its car lines, the Tempo and Topaz. The absence of any alleged widespread problem is another indication that there is no justification for the agency to further extend the "one car credit."

With respect to Ford's problem with the Tempo and Topaz lines, Ford does not want to expend the resources necessary to develop and install passenger-side air bags in the Tempo and Topaz lines, since those lines will soon be replaced by newer vehicles. Ford's petition indicated that it did not want to discontinue offering optional driver-side air bags in the Tempo and Topaz in favor of installing the standard equipment automatic belts at both the driver and passenger positions. However, Ford's petition neglected to mention another option.

Ford could, if it wished to do so, continue to offer driver-side air bags in these lines in addition to the standard equipment automatic belts for the driver and passenger. This option should not impose any difficult practicability issues for Ford, since Ford already installs automatic belts as standard equipment and driver-side air bags as optional equipment in its Tempo/Topaz lines. Ford might have to conduct some additional evaluation tests for the combination of an air bag and automatic belt at the driver's position in these vehicles, but the agency believes that should not be a major burden. In addition, this option would not give rise to any questions of public acceptability. Saturn has used the combination of a driver's air bag and automatic belts for the driver and passenger in its 1992 vehicles with no indications of resistance from the public. Thus, it is not clear that an extension of the "one car credit" is necessary to resolve Ford's problem for its Tempo and Topaz lines.

After considering Ford's petition and the other relevant facts, the agency has concluded that there is no reasonable possibility that the requested extension of the "one car credit" provision would be issued as a final rule at the end of the rulemaking proceeding requested by Ford. Accordingly, Ford's petition is denied.

Issued on October 7, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24847 Filed 10-13-92; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 572

Anthropomorphic Test Dummies

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

ACTION: Final rule; technical amendment.

SUMMARY: This rule corrects the erroneous dates shown in the Code of Federal Regulations for the Anthropomorphic Test Dummy Parts List and the Parts List Index for the Hybrid III test dummy.

DATES: The amendment made by this rule takes effect on October 14, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley H. Backaitis, Office of Vehicle Safety Standards, NRM-10, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Backaitis can be reached by telephone at (202) 366-4912.

SUPPLEMENTARY INFORMATION: 49 CFR part 572, *Anthropomorphic Test Dummies,* specifies the dimensions, physical attributes, and performance characteristics of the Hybrid III test dummy in subpart E. A general description of the Hybrid III test dummy is set forth in § 572.31(a), which references six items that comprise the drawing and specifications package for the test dummy. The first of these six items is set forth in § 572.31(a)(1) as follows:

> The Anthropomorphic Test Dummy Parts List, dated December 15, 1987, and containing 13 pages, and a Parts List Index, dated December 15, 1987, containing 8 pages.

The Dummy Parts List and the Parts List Index were approved for incorporation by reference by the Director of the **Federal Register**. As a part of that approval, the Dummy Parts List and the Parts List Index are on file in the reference library of the Office of the **Federal Register** and in the general reference section of the NHTSA Docket Section. However, the Dummy Parts List and the Parts List Index that are on file are both dated March 10, 1988. These March 10, 1988 lists are the correct version and are the versions that the agency intended to incorporate into 49 CFR part 572. Accordingly, this rule amends § 572.31(a) so that it refers to the Dummy Parts List and Parts List Index of March 10, 1988.

This correction imposes no duties or responsibilities on any party, nor does it alter any existing obligations. Instead, it simply ensures that the public will have an accurate copy of part 572 in title 49 of the Code of Federal Regulations. Accordingly, NHTSA finds for good cause that notice and opportunity for comment on this correction are unnecessary, and this correction is effective upon publication in the **Federal Register**.

List of Subjects in 49 CFR Part 572

Motor vehicle safety.

In consideration of the foregoing, 49

CFR 572.31(a)(1) is amended as follows:

PART 572—[AMENDED]

1. The authority citation for part 572 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Section 572.31 is amended by revising paragraph (a)(1) to read as follows:

§ 572.31 General description.

(a) * * *

(1) The Anthropomorphic Test Dummy Parts List, dated March 10, 1988, and containing 13 pages, and a Parts List Index, dated March 10, 1988, containing 8 pages.

* * * * *

Issued on October 7, 1992.

Marion C. Blakey,

Administrator.

[FR Doc. 92-24846 Filed 10-13-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in statistical area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the fourth quarterly allowance of the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), October 8, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP AT 50 CFR parts 620 and 672.

The fourth quarterly allowance of pollock TAC for statistical area 62 is 5,844 metric tons (mt), determined in accordance with § 672.20(a)(2)(iv).

The Director of the Alaska Region, NMFS (Regional Director), has determined that the 1992 fourth quarterly allowance of pollock TAC for Statistical Area 62 will soon be reached. Therefore, in accordance with § 672.20(c)(2)(ii), NMFS is establishing a directed fishing allowance for the fourth quarter of 5,344 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in statistical area 62, effective from 12 noon A.l.t., October 8, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: October 8, 1992.

David S. Crestin,

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

[FR Doc. 92-24890 Filed 10-8-92; 3:24 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 199
Wednesday, October 14, 1992

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 JUSTICE

Immigration and Naturalization Service

8 CFR Parts 242 and 287

[INS No. 1442-92; AG Order No. 1626-92]

RIN 1115-AC63

Enhancing the Enforcement Authority of Immigration Officers

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Naturalization Service is proposing to codify existing policy guidelines regarding the authority of immigration officers under the direction and control of the Attorney General to arrest persons, carry firearms, and serve process, and to address changes made by the Immigration Act of 1990 (IMMACT 90). Section 503 of IMMACT 90 expands the arrest authority of immigration officers beyond arrests for violations of the immigration laws. Section 503 of IMMACT 90 also requires that every alien fourteen years of age or older against whom deportation proceedings are commenced shall be fingerprinted and photographed and that such fingerprints and photographs shall be made available to other law enforcement agencies, upon request. This proposed regulation affirms both existing and newly developed policy implementing section 503 of IMMACT 90 and ensures its consistent application by all immigration officers involved in the enforcement of the immigration laws.

DATES: Written comments must be submitted on or before November 30, 1992.

ADDRESSES: Written comments should be submitted, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5304, Washington, DC 20536. Please include INS number 1441-92 on the mailing envelope to ensure proper and timely handling.

FOR FURTHER INFORMATION CONTACT: Kathryn E. Sheehan, IMMACT Enforcement Coordinator, Immigration and Naturalization Service, 425 I Street, NW., room 7246, Washington, DC 20536, telephone (202) 514-3032.

SUPPLEMENTARY INFORMATION: Section 503 of IMMACT 90, Public Law 101-649, 104 Stat. 4978, November 29, 1990, amended section 287 of the Immigration and Nationality Act (Act) to expand arrest authority beyond arrest for violation of the immigration laws. The statute permits immigration officers, authorized by the Attorney General, through regulation, to make arrests without warrant for any offense against the United States committed in the presence of the officer (section 287(a)(5)(A) of the Act), and for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony (section 287(a)(5)(B) of the Act). In both instances, the immigration officer must be performing duties relating to the enforcement of the immigration laws at the time of the arrest and there must be a likelihood of the person escaping before an arrest warrant can be obtained.

Section 503 of IMMACT 90 mandates that before an immigration officer may make an arrest or any felony under section 287(a)(5)(B) of the Act, the Attorney General must publish final regulations which define the categories of immigration officers who may use force, including deadly force, and the circumstances under which such force may be used; establish standards with respect to enforcement activities of the Service; require that any immigration officer is not authorized to make arrests under section 287(a)(5)(B) of the Act unless the officer has received certification as having completed a training program which covers such arrests and standards; and establish an expedited internal review process for violations of such standards.

Section 503 of IMMACT 90 also amended section 287 of the Act to authorize immigration officers, authorized by the Attorney General, through regulation, to carry firearms and to expand the service of process beyond immigration matters and permit immigration officers to execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. In addition, section 503 of IMMACT 90 amended section 287 of the Act to provide under regulations of the Attorney General for the fingerprinting and photographing of each alien fourteen years of age or older against whom deportation proceeding are commenced pursuant to section 242 of the Act and to make such fingerprints and photographs available to Federal, State, and local law enforcement agencies, upon request.

The language of section 503 of IMMACT 90 was derived from the bill referred to as the Comprehensive Crime Control Act of 1990. The House of Representatives Committee on the Judiciary Report (Rept. 101-681) regarding the Comprehensive Crime Control Act of 1990 discussed the arrest authority of immigration officers prior to the IMMACT 90 amendment and reported, "[t]he outdated authority provisions * * * of the Immigration and Nationality Act do not take into consideration the complexity and diversity of the INS officers' modern enforcement responsibilities in carrying out their primary law enforcement duties." The general arrest authority contained in section 287 of the Act, as amended, will bring immigration officers in line with other Department of Justice law enforcement officers and complement the resources of the Federal Bureau of Investigation, Drug Enforcement Administration and United States Marshals. The amendments to section 287 of the Act recognize the broad spectrum of offenses often encountered by immigration officers during their enforcement of the Act and provide them with authorities appropriate to their responsibilities. The proposed regulations will assure the continuance of disciplined and professional conduct by Service enforcement personnel.

The proposed regulations establish enforcement standards in the areas of use of force, interrogation and detention not amounting to arrest, conduct of arrests, transportation, high-speed vehicular pursuit, and site inspections. The policy on the use of force is based on the "force continuum" model taught at the Federal Law Enforcement

Training Center. From options on this continuum, officers are instructed to employ only the minimum level of force necessary to control the situation.

The proposed regulations also restrict the authority to arrest, carry firearms, use force (including deadly force), initiate high-speed vehicular pursuits, and/or execute warrants and other process to those categories of immigration officers who need one or more of the authorities to effectively accomplish their individual mission and who are properly trained in exercising each authority. The following charge summarizes the categories of immigration officers who would be authorized to perform the principal enforcement authorities.

CATEGORIES OF IMMIGRATION OFFICERS

Enforcement authority	Border patrol agent (includes aircraft pilots)	Special agent	Deportation officer	Detention enforcement officer	Immigration inspector	Immigration examiner
General Arrest (Section 287(a)(5)(B) of the Act).	Yes	Yes	Yes	No	Yes	No.
General Arrest (Section 287(a)(5)(A) of the Act).	Yes	Yes	Yes	No	Yes	No.
Felony Arrest Regarding Immigration Laws (Section 287(a)(4) of the Act).	Yes	Yes	Yes	No	Yes	Yes.
Anti-Smuggling Arrest (Section 274(a) of the Act).	Yes	Yes	Yes	No	Yes	No.
Administrative Arrest for Immigration Violations (Section 287(a)(2) of the Act).	Yes	Yes	Yes	No	Yes	Yes.
Carry Firearms (Includes deadly force) (Section 287(a) of the Act).	Yes	Yes	Yes	Yes	Yes	No.
Non-Deadly Force (Section 287(a) of the Act).	Yes	Yes	Yes	Yes	Yes	No.
Patrolling the Border (Section 287(a)(3) of the Act).	Yes	Yes	No	No	Yes (seaports only).	No.
Search Warrant (Section 287(a) of the Act)	Yes	Yes	No	No	No	No.
Criminal Arrest Warrant (Section 287(a) of the Act).	Yes	Yes	Yes	No	No	No.
Administrative Arrest Warrant (Section 287(a) of the Act).	Yes	Yes	Yes	Yes	No	No.
Search of Applicants for Admission to the U.S. (Section 287(c) of the Act).	Yes	Yes	Yes	No	Yes	Yes.
Vehicle Pursuit (Section 287.8(e) of 8 CFR)	Yes	Yes	Yes	No	No	No.

Yes = Authorized. No = Not Authorized.

The following Immigration Officers may also be granted one or more of the enforcement authorities:

1. Supervisory personnel, who completed basic immigration law enforcement training, who are responsible for supervising the activities of those officers listed above; and

2. Immigration officers, under certain circumstances, who are designated individually or as a class by the Commissioner (authorities pertaining to criminal violations require approval of the Deputy Attorney General); and

3. Managers, under certain circumstances, who are designated individually or as a class by the Commissioner (authorities pertaining to criminal violations require approval of the Deputy Attorney General).

Due to the numerous changes to section 287 of the Act, 8 CFR part 287 is revised almost in its entirety in order to allow for a more uniform and consistent organization of this section. For ease of reference, the provisions of the statute are reiterated in several sections of the regulations to assist immigration officers in the performance of their duties.

Pertinent parts of 8 CFR part 242 are also revised in order to make technical changes to the list of immigration officers who are authorized to issue orders to show cause, warrants of arrest and detainers and to implement the fingerprinting and photographing requirements for each alien fourteen years of age or older against whom deportation proceedings are commenced.

Following the review of all public comments, a final rule will be published containing a 1-year delayed implementation date in order to train and certify all designated immigration officers in the general arrest provisions and the enforcement standards. This will ensure a unified implementation approach nationwide rather than one whereby immigration officers in one part of the country have general arrest authority while officers in a different part of the country do not because they are awaiting training and certification.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects

8 CFR Part 242

Administrative practice and procedure, Aliens.

8 CFR Part 287

Immigration, Law enforcement officers.

Accordingly, it is proposed that chapter I of title 8 of the Code of Federal Regulations be amended as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. The authority citation for part 242 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1252, 1357; 8 CFR part 2.

2. Section 242.1 is amended by revising paragraph (a) to read as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States, except an alien who has been admitted to the United States under the provisions of section 217 of the Act and part 217 of this chapter other than such an alien who has applied for asylum in the United States, is commenced by the filing of an Order to Show Cause with the Office of the Immigration Judge. In the proceeding, the alien shall be known as the respondent. An order to show cause may only be issued by the following immigration officers:

(1) District directors (except foreign);

(2) Deputy district directors (except foreign);

(3) Assistant district directors for investigations;

(4) Deputy assistant district directors for investigations;

(5) Assistant district directors for deportation;

(6) Deputy assistant district directors for deportation;

(7) Assistant district directors for examinations;

(8) Deputy assistant district directors for examinations;

(9) Officers in charge (except foreign);

(10) Assistant officers in charge (except foreign);

(11) Chief patrol agents;

(12) Deputy chief patrol agents;

(13) Associate chief patrol agents;

(14) Assistant chief patrol agents;

(15) The Assistant Commissioner, Investigations;

(16) Service center directors;

(17) The Director, Organized Crime Drug Enforcement Task Force (OCDETF);

(18) Assistant Director, Organized Crime Drug Enforcement Task Force (OCDETF) (New York, NY; Houston, TX; Los Angeles, CA; and Miami, FL);

(19) The Assistant Commissioner, Refugees, Asylum and Parole; or

(20) Supervisory asylum officers.

* * * * *

3. Section 242.2 is amended by revising paragraphs (a)(1) and (c)(1) to read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Detainers in general.* (1) A detainer may be issued only in the case of an alien who there is reason to believe is amenable to exclusion or deportation proceedings under any provision of law. The following immigration officers are hereby authorized to issue detainers while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Immigration examiners;

(F) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(G) Immigration officers who need the authority to issue detainers in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (a)(1)(i) of this section;

(B) Need the authority to issue detainers in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner.

* * * * *

(c) *Warrant of arrest.* (1) At the time of issuance of the Order to Show Cause, or at any time thereafter and up to the time the respondent becomes the subject of a duly issued warrant of deportation, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. In the case of a respondent convicted on or after November 18, 1988, of an aggravated felony as defined in section 101(a)(43) of the Act, the respondent shall not be released from custody, either before or after a determination of deportability, unless the respondent has been lawfully admitted and the respondent demonstrates to the satisfaction of the district director that he or she is not a threat to the community and is likely to appear before any scheduled hearings. A warrant of arrest may be served only by those immigration officers listed in § 287.5(e)(2) of this chapter. A warrant of arrest may be issued only by the following immigration officers:

(i) District directors (except foreign);

(ii) Deputy district directors (except foreign);

(iii) Assistant district directors for investigations;

(iv) Deputy assistant district directors for investigations;

(v) Assistant district directors for deportation;

(vi) Deputy assistant district directors for deportation;

(vii) Assistant district directors for examinations;

(viii) Deputy assistant district directors for examinations;

(ix) Officers in charge (except foreign);

(x) Assistant officers in charge (except foreign);

(xi) Chief patrol agents;

(xii) Deputy chief patrol agents;

(xiii) Associate chief patrol agents;

(xiv) Assistant chief patrol agents;

(xv) The Assistant Commissioner, Investigations;

(xvi) The Director, Organized Crime Drug Enforcement Task Force (OCDETF); or

(xvii) Assistant Director, Organized Crime Drug Enforcement Task Force (OCDETF) (New York, NY; Houston, TX; Los Angeles, CA; and Miami, FL).

* * * * *

4. Section 242.4 is revised to read as follows:

§ 242.4 Fingerprints and photographs.

Every alien 14 years of age or older against whom proceedings are commenced under this part by service of an order to show cause shall be fingerprinted and photographed. Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies upon request to the district director or chief patrol agent having jurisdiction over the alien's record. Any such alien, regardless of his or her age, shall be photographed and/or fingerprinted if required by any immigration officer authorized to issue an Order to Show Cause as listed in § 242.1(a) of this part.

PART 287—FIELD OFFICERS; POWERS AND DUTIES

5. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

6. Section 287.1 is amended by:

a. Removing paragraphs (c), (d), and (e);

b. Redesignating paragraphs (f) through (i) as paragraphs (c) through (f) respectively; and

c. Adding a new paragraph (g) to read as follows:

§ 287.1 Definitions.

* * * * *

(g) *Basic immigration law enforcement training.* The phrase *basic immigration law enforcement training,*

as used in § 242.2(a)(1) of this chapter and §§ 287.5, 287.7, and 287.8 of this part, means the successful completion of one of the following courses of training provided at the Immigration Officer Academy or Border Patrol Academy: Immigration Officer Basic Training Course from 1972 to the present, Border Patrol Basic Training Course from 1940 to the present, and Immigration Detention Enforcement Officer Basic Training Course from 1978 to the present.

7. Section 287.2 is revised to read as follows:

§ 287.2 Disposition of criminal cases.

Whenever a district director or chief patrol agent has reason to believe that there has been a violation punishable under any criminal provision of the laws administered or enforced by the Service, he or she shall immediately initiate an investigation to determine all the pertinent facts and circumstances and shall take such further action as he or she deems necessary. In no case shall this investigation prejudice the right of an arrested person to be taken without unnecessary delay before a United States magistrate judge, United States district judge or, if necessary, a judicial officer in accordance with section 3041 of title 18 of the United States Code, empowered to commit persons charged with offenses against the laws of the United States.

8. Section 287.5 is revised to read as follows:

§ 287.5 Exercise of power by immigration officers.

(a) *Power and authority to interrogate and administer oaths.* Any immigration officer as defined in § 103.1(q) of this chapter is hereby authorized and designated to exercise anywhere in the United States the power conferred by:

(1) Section 287(a)(1) of the Act to interrogate, without warrant, any alien or person believed to be an alien concerning his or her right to be, or to remain, in the United States; and

(2) Section 287(b) of the Act to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States; or concerning any matter which is material or relevant to the enforcement of the Act and the administration of the Immigration and Naturalization Service.

(b) *Power and authority to patrol the border.* (1) Section 287(a)(3) of the Act authorizes designated immigration officers, as listed in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, to board and search for aliens, without warrant, any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle within a reasonable distance from any external boundary of the United States; and within a distance of twenty-five miles from any such external boundary to have access, without warrant, to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States.

(2) The following immigration officers are hereby authorized and designated to exercise the power to patrol the border conferred by section 287(a)(3) of the Act while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Immigration inspectors (seaport operations only);

(D) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(E) Immigration officers who need the authority to patrol the border under section 287(a)(3) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (b)(2)(i) of this section;

(B) Need the authority to patrol the border under section 287(a)(3) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner.

(c) *Power and authority to arrest.*—(1) *Arrests of aliens under section 287(a)(2) of the Act for immigration violations.* Section 287(a)(2) of the Act authorizes designated immigration officers, as listed in paragraphs (c)(1)(i) and (c)(1)(ii) of this section, to administratively arrest any alien, without warrant, who in the presence or view of the immigration officer is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to administratively arrest any alien in the United States if the immigration officer has reason to believe that the alien is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his or her arrest. When making an arrest, the designated immigration officer shall adhere to the provisions of the enforcement standard governing the conduct of arrests in § 287.8(c) of this part. The following immigration officers are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(2) of the Act while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Immigration examiners;

(F) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(G) Immigration officers who need the authority to arrest aliens under section 287(a)(2) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (c)(1)(i) of this section;

(B) Need the authority to arrest aliens under section 287(a)(2) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner.

(2) *Arrests of persons under section 287(a)(4) of the Act for felonies regulating the admission, exclusion, or expulsion of aliens.* Section 287(a)(4) of the Act authorizes designated immigration officers, as listed in paragraphs (c)(2)(i) and (c)(2)(ii) of this section, to arrest persons, without warrant, for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if the immigration officer has reason to believe that the

person is guilty of such felony and if there is a likelihood of the person escaping before a warrant can be obtained for his or her arrest. When making an arrest, the designated immigration officer shall adhere to the provisions of the enforcement standard governing the conduct of arrests in § 287.8(c) of this part. The following immigration officers are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(4) of the Act while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Immigration examiners;

(F) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(G) Immigration officers who need the authority to arrest persons under section 287(a)(4) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (c)(2)(i) of this section;

(B) Need the authority to arrest persons under section 287(a)(4) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually, or as a class, by the Commissioner with the approval of the Deputy Attorney General.

(3) *Arrests of persons under section 287(a)(5)(A) of the Act for any offense against the United States.* Section 287(a)(5)(A) of the Act authorizes designated immigration officers, as listed in paragraphs (c)(3)(i) and (c)(3)(ii) of this section, to arrest persons, without warrant, for any offense against the United States, if the offense is committed in the immigration officer's presence while the immigration officer is performing duties relating to the enforcement of the immigration laws at the time of the arrest and there is a likelihood of the person escaping before a warrant can be obtained for his or her arrest. When making an arrest, the designated immigration officer shall adhere to the provisions of the enforcement standard governing the conduct of arrests in § 287.8(c) of this part. The following immigration officers are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(5)(A) of the Act:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(F) Immigration officers who need the authority to arrest persons under section 287(a)(5)(A) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (c)(3)(i) of this section;

(B) Need the authority to arrest persons under section 287(a)(5)(A) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General.

(4) *Arrests of persons under section 287(a)(5)(B) of the Act for any felony.* (i) Section 287(a)(5)(B) of the Act authorizes designated immigration officers, as listed in paragraphs (c)(4)(ii)(A) and (c)(4)(ii)(B) of this section, to arrest persons, without warrant, for any felon cognizable under the laws of the United States if:

(A) The immigration officer has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

(B) The immigration officer is performing duties relating to the enforcement of the immigration laws at the time of the arrest;

(C) There is a likelihood of the person escaping before a warrant can be obtained for his or her arrest; and

(D) The immigration officer has been certified as successfully completing a training program which covers such arrests and the standards with respect to the enforcement activities of the Service as defined in § 287.8 of this part.

(ii) When making an arrest, the designated immigration officer shall adhere to the provisions of the enforcement standard governing the conduct of arrests in § 287.8(c) of this part. The following immigration officers are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(5)(B) of the Act:

(A) Upon the successful completion of basic immigration law enforcement training:

(*1*) Border patrol agents, including aircraft pilots;

(*2*) Special agents;

(*3*) Deportation officers;

(*4*) Immigration inspectors;

(*5*) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(*6*) Immigration officers who need the authority to arrest persons under section 287(a)(5)(B) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(B) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(*1*) Are responsible for supervising the activities of those officers listed in paragraph (c)(4)(ii)(A) of this section;

(*2*) Need the authority to arrest persons under section 287(a)(5)(B) of the Act in order to effectively accomplish their individual mission;

(*3*) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(*4*) Are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General.

(iii) Notwithstanding the authorization and designation set forth in paragraphs (c)(4)(ii)(A) and (c)(4)(ii)(B) of this section, no immigration officer is authorized to make an arrest for any felony under the authority of section 287(a)(5)(B) of the Act until such time as he or she has been certified by the Director of Training as successfully completing a training course encompassing such arrests and the

standards for enforcement activities as defined in § 287.8 of this part. Such certification shall be valid for the duration of the immigration officer's continuous employment, unless it is suspended or revoked by the Commissioner or the Commissioner's designee for just cause.

(5) *Arrests of persons under section 274(a) of the Act who bring in, transport, or harbor certain aliens, or induce them to enter.* Section 274(a) of the Act authorized designated immigration officers, as listed in paragraphs (c)(5)(i) and (c)(5)(ii) of this section, to arrest persons who bring in, transport, or harbor aliens, or induce them to enter the United States in violation of law. When making an arrest, the designated immigration officer shall adhere to the provisions of the enforcement standard governing the conduct of arrests in § 287.8(c) of this part. The following immigration officers are authorized and designated to exercise the arrest power conferred by section 274(a) of the Act while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Defortation officers;

(D) Immigration inspectors;

(E) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(F) Immigration officers who need the authority to arrest persons under section 274(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (c)(5)(i) of this section;

(B) Need the authority to arrest persons under section 274(a) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General.

(d) *Power and authority to conduct searches.* (1) Section 287(c) of the Act authorizes designated immigration officers, as listed in paragraphs (d)(2)(i) and (d)(2)(ii) of this section, to conduct a search, without warrant, of the person and of the personal effects in the possession of any person seeking admission to the United States, concerning whom the immigration officer has reasonable cause to suspect that grounds exist for exclusion from the United States under the Act which would be disclosed by such search.

(2) The following immigration officers are hereby authorized and designated to exercise the power to conduct searches conferred by section 287(c) of the Act while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Immigration examiners;

(F) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(G) Immigration officers who need the authority to conduct searches under section 287(c) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (d)(2)(i) of this section;

(B) Need the authority to conduct searches under section 287(c) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner.

(e) *Power and authority to execute warrants*—(1) *Search warrants.* The following immigration officers are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to execute a criminal or administrative search warrant while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(D) Immigration officers who need the authority to execute search warrants under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (e)(1)(i) of this section;

(B) Need the authority to execute search warrants under section 287(a) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General.

(2) *Arrest warrants*—(i) *Administrative.* The following immigration officers are hereby authorized and designated to exercise the power pursuant to section 287(a) of the Act to serve administrative warrants of arrest issued under section 242 of the Act while performing duties in enforcing the immigration laws of the United States:

(A) Upon the successful completion of basic immigration law enforcement training:

(*1*) Border patrol agents, including aircraft pilots;

(*2*) Special agents;

(*3*) Deportation officers;

(*4*) Detention enforcement officers;

(*5*) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(*6*) Immigration officers who need the authority to execute administrative arrest warrants under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner; and

(B) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(*1*) Are responsible for supervising the activities of those officers listed in paragraph (e)(2)(i)(A) of this section;

(2) Need the authority to execute administrative arrest warrants under section 287(a) of the Act in order to effectively accomplish their individual mission;

(3) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(4) Are designated, individually or as a class, by the Commissioner.

(ii) *Criminal.* The following immigration officers are hereby authorized and designated to exercise the power to serve criminal warrants of arrest issued under the authority of the United States while performing duties in enforcing the immigration laws of the United States:

(A) Upon the successful completion of basic immigration law enforcement training:

(1) Border patrol agents, including aircraft pilots;

(2) Special agents;

(3) Deportation officers;

(4) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(5) Immigration officers who need the authority to serve criminal warrants of arrest under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(B) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(1) Are responsible for supervising the activities of those officers listed in paragraph (e)(2)(ii)(A) of this section;

(2) Need the authority to serve criminal warrants of arrest under section 287(a) of the Act in order to effectively accomplish their individual mission;

(3) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(4) Are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General.

(f) *Power and authority to carry firearms.* The following immigration officers are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to carry firearms while performing duties in enforcing the immigration laws of the United States provided that they are individually qualified by training and experience to handle and operate safely the firearms they are permitted to carry, maintain proficiency in the use of such firearms, and adhere to the provisions of the enforcement Standard governing the use of force in § 287.8(a) of this part:

(1) Upon the successful completion of basic immigration law enforcement training:

(i) Border patrol agents, including aircraft pilots;

(ii) Special agents;

(iii) Deportation officers;

(iv) Detention enforcement officers;

(v) Immigration inspectors;

(vi) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(vii) Immigration officers who need the authority to carry firearms under section 286(a) of the act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(2) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(i) Are responsible for supervising the activities of those officers listed in paragraph (f)(1) of this section;

(ii) Need the authority to carry firearms under section 287(a) of the Act in order to effectively accomplish their individual mission;

(iii) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(iv) Are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General.

9. Section 287.7 is amended by revising paragraph (a)(1) to read as follows:

§ 287.7 Detainer provisions under section 287(d)(3) of the Act.

(a) *Detainers in general.* (1) A detainer may be issued only in the case of an alien when there is reason to believe is amenable to exclusion or deportation proceedings under any provision of law. The following immigration officers are hereby authorized and designated to issue detainers under section 287(d)(3) of the Act while performing duties in enforcing the immigration laws of the United States:

(i) Upon the successful completion of basic immigration law enforcement training:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Immigration examiners;

(F) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(G) Immigration officers who need the authority to issue detainers under section 287(d)(3) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner; and

(ii) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(A) Are responsible for supervising the activities of those officers listed in paragraph (a)(1)i) of this section;

(B) Need the authority to issue detainers under section 287(d)(3) of the Act in order to effectively accomplish their individual mission;

(C) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(D) Are designated, individually or as a class, by the Commissioner.

* * * * *

10. Sections 287.8, 287.9, 287.10 and 287.11 are added to read as follows:

§ 287.8 Standards for enforcement activities.

The following standards for enforcement activities contained in this part must be adhered to by every immigration officer involved in enforcement activities. Any violation of this section shall be reported to the Office of the Inspector General of the Department of Justice pursuant to § 287.10 of this part.

(a) *Use of force.* (1) *Non-deadly force.* (i) Non-deadly force is any use of force other than that which is considered deadly force.

(ii) Non-deadly force may be used only when a designated immigration officer, as listed in paragraphs (a)(1)(iv)(A) and (a)(1)(iv)(B) of this section, has reasonable grounds to believe that such force is necessary.

(iii) The level of non-deadly force used must be determined based on the likelihood of physical harm to the designated immigration officer or other persons and the amount of force used by the suspect or prisoner in assaulting the officer, resisting arrest, or attempting to escape. The designated immigration officer shall always use the minimum non-deadly force necessary to accomplish the officer's mission and shall escalate to a higher level of non-

deadly force only when such higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant.

(iv) The following immigration officers are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to use non-deadly force should circumstances warrant it while performing duties in enforcing the immigration laws of the United States:

(A) Upon the successful completion of basic immigration law enforcement training:

(*1*) Border patrol agents, including aircraft pilots;

(*2*) Special agents;

(*3*) Deportation officers;

(*4*) Detention enforcement officers;

(*5*) Immigration inspectors;

(*6*) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(*7*) Immigration officers who need the authority to use non-deadly force under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner; and

(B) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(*1*) Are responsible for supervising the activities of those officers listed in paragraph (a)(1)(iv)(A) of this section;

(*2*) Need the authority to use non-deadly force under section 287(a) of the Act in order to effectively accomplish their individual mission;

(*3*) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(*4*) Are designated, individually or as a class, by the Commissioner.

(2) *Deadly force.* (i) Deadly force is any use of force that is likely to cause death or serious bodily harm

(ii) Deadly force may be used only when a designated immigration officer, as listed in paragraphs (a)(2)(iii)(A) and (a)(2)(iii)(B) of this section, has reasonable grounds to believe that such force is necessary to protect the designated immigration officer or other persons from the present danger of death or serious bodily harm.

(iii) The following immigration officers are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to use deadly force should circumstances warrant it while performing duties in enforcing the immigration laws of the United States:

(A) Upon the successful completion of basic immigration law enforcement training:

(*1*) Border patrol agents, including aircraft pilots;

(*2*) Special agents;

(*3*) Deportation officers;

(*4*) Detention enforcement officers;

(*5*) Immigration inspectors;

(*6*) Supervisory personnel who are responsible for supervising the activities of those officers listed above;

(*7*) Immigration officers who need the authority to use deadly force under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General; and

(B) District directors, deputy district directors, officers in charge, assistant officers in charge, and other managers who:

(*1*) Are responsible for supervising the activities of those officers listed in paragraph (a)(2)(iii)(A) of this section;

(*2*) Need the authority to use deadly force under section 287(a) of the Act in order to effectively accomplish their individual mission;

(*3*) Have successfully completed basic immigration law enforcement training or training substantially equivalent to basic immigration law enforcement training; and

(*4*) Are designated, individually or as a class, by the Commissioner with the approval of the Deputy Attorney General.

(b) *Interrogation and detention not amounting to arrest.* (1) Interrogation is questioning designed to elicit specific information. An immigration officer, like any other person, has the right to ask questions of anyone as long as the immigration officer does not, by means of physical force or show of authority, restrain the freedom of an individual, not under arrest, to walk away.

(2) If the immigration officer has a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in a violation of federal law or is an alien illegally in the United States, the immigration officer may briefly detain the person for questioning.

(3) Data obtained from this questioning may provide the information for a subsequent arrest which must be effected only by a designated immigration officer, as listed in § 287.5(c) of this part. The conduct of arrests is specified in paragraph (c) of this section.

(c) *Conduct of arrests.*—(1) *Authority.* Only designated immigration officers are authorized to make an arrest. The list of designated immigration officers varies depending on the type of arrest as listed in § 287.5 (c)(1) through (c)(5) of this part.

(2) *General procedures.* (i) An arrest shall be made only when the designated immigration officer has reason to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States.

(ii) A warrant of arrest shall be obtained whenever possible prior to the arrest.

(iii) At the time of the arrest, the designated immigration officer shall, as soon as it is practical and safe to do so:

(A) Identity himself or herself as an immigration officer who is authorized to execute an arrest; and

(B) State that the person is under arrest and the reason for the arrest.

(iv) Every person arrested and charged with a criminal violation of the laws of the United States shall be brought before a United States magistrate judge, United States district judge or, if necessary, a judicial officer in accordance with section 3041 of Title 18 of the United States Code, empowered to commit persons charged with such crimes without unnecessary delay. Accordingly, the immigration officer shall contact the Assistant United States Attorney to arrange for initial appearance.

(v) With respect to aliens administratively arrested and administratively charged with being in the United States in violation of law, the arresting officer shall adhere to the procedures set forth in § 287.3 of this part if the arrest is made without a warrant, and to the procedures set forth in § 242.2(c)(2) of this chapter if the arrest is made with a warrant.

(vi) At the time of arrest, or as soon thereafter as practicable, a person arrested and charged with a criminal violation of the laws of the United States shall be advised of the appropriate rights as required by law. It is the duty of the designated immigration officer to assure that the warnings are given in a language the subject understands and that the warnings are understood. The fact that a person has been advised of his or her rights shall be documented on appropriate Service forms and made a part of the arrest record.

(vii) The use of threats, coercion, or physical abuse by the designated immigration officer to induce a suspect to waive his or her rights and/or to make a statement is prohibited.

(d) *Transportation.*—(1) *Vehicle transportation.* All persons will be

transported in a manner to ensure the safety of the persons being transported. When persons arrested or detained are being transported by vehicle, each person will be thoroughly searched before being placed in the vehicle. The person being transported shall not be handcuffed to the frame or any part of the moving vehicle or an object in the moving vehicle. Seatbelts shall be utilized at all times if the vehicle is so equipped. The person being transported shall not be left unattended during transport unless the immigration officer needs to perform a law enforcement function.

(2) *Airline transportation.* The escorting officer(s) must abide by all Federal Aviation Administration and airline carrier rules and regulations pertaining to weapons and the transportation of prisoners.

(e) *Vehicular pursuit.* (1) A vehicular pursuit is an active attempt by a designated immigration officer, as listed in paragraph (e)(2) of this section, in a designated pursuit vehicle, to apprehend fleeing suspects who are attempting to avoid apprehension. A designated pursuit vehicle is defined as a vehicle equipped with emergency lights and siren, placed in or on each vehicle, that emit audible and visual signals in order to warn others that emergency law enforcement activities are in progress.

(2) The following immigration officers, who have successfully completed basic immigration law enforcement training, are hereby authorized and designated to initiate a vehicular pursuit while performing duties in enforcing the immigration laws of the United States:

(i) Border patrol agents, including aircraft pilots;

(ii) Special agents;

(iii) Deportation officers;

(iv) Supervisory personnel who are responsible for supervising the activities of those officers listed above; and

(v) Immigration officers who need the authority to initiate a vehicular pursuit in order to effectively accomplish their individual mission and who are designated, individually or as a class, by the Commissioner.

(f) *Site inspections.* Site inspections are Service enforcement activities undertaken to locate and identify aliens illegally in the United States, or aliens engaged in unauthorized employment, at locations where there is a reasonable suspicion, based on articulable facts, that such aliens are present.

(2) An immigration officer may enter into any area of a business or other activity to which the general public has access or onto open fields which are not farms or other outdoor agricultural operations without a warrant, consent, or any particularized suspicion in order to question any person encountered whom the officer believes to be an alien concerning his or her right to be or remain in the United States.

(3) An immigration officer may not enter into the non-public areas of a business, a residence including the curtilage of such residence, or a farm or other outdoor agricultural operation, except as provided in section 287(a)(3) of the Act, for the purpose of questioning the occupants or employees concerning their right to be or remain in the United States unless the officer has either a warrant or the consent of the owner or other person in control of the site to be inspected. When consent to enter is given, the immigration officer must note that consent was given, and, if possible by whom consent was given, on the officer's report. If the immigration officer is denied access to conduct a site inspection, a warrant may be obtained.

(4) Adequate records must be maintained nothing the results of every site inspection, including those where no illegal aliens are located.

§ 287.9 Criminal search warrant and firearms policies.

(a) A search warrant should be obtained prior to conducting a search in a criminal investigation unless a specific exception to the warrant requirement is authorized by statute or recognized by the courts. Such exceptions may include, for example, the consent of the person to be searched, exigent circumstances, searches incident to a lawful arrest and border searches. The Commissioner will promulgate guidelines governing officers' conduct relating to search and seizure.

(b) In using a firearm, officers will adhere to the standard of conduct set forth in section 287.8(a)(2) of these regulations. In an on-duty status, an officer will carry only firearms (whether Service issued or personally owned) which have been approved pursuant to guidelines promulgated by the Commissioner. The Commissioner will promulgate guidelines with respect to (1) investigative procedures to be followed after a shooting incident involving an officer, (2) loss or theft of an approved firearm, (3) maintenance of records with respect to the issuance of firearms and ammunition, and (4) procedures for the proper care, storage and maintenance of firearms, ammunition and related equipment.

§ 287.10 Expedited internal review process.

(a) *Violations of standards for enforcement activities.* Alleged violations of the standards for enforcement activities established in accordance with the provisions of § 287.8 of this part shall be investigated expeditiously consistent with the policies and procedures of the Office of Professional Responsibility and the Office of the Inspector General of the Department of Justice. Within the Immigration and Naturalization Service, the Office of Internal Audit is responsible for coordinating the reporting and disposition of allegations referred to the Commissioner for action.

(b) *Complaints.* Any persons wishing to lodge a complaint pertaining to violations of enforcement standards contained in § 287.8 of this part may contact the Office of the Inspector General, Department of Justice, P.O. Box 27606, Washington, DC, 20038–7606, of telephone 1–800–869–4499. All complaints submitted or received by any employee of the Immigration and Naturalization Service shall be referred promptly to the Office of the inspector General.

(c) *Expedited processing of complaints.* When an allegation or complaint of violation of § 287.8 of this part is lodged against an employee or officer of the Service, the allegation or complaint shall be referred promptly for investigation in accordance with the policies and procedures of the Department of Justice. At the conclusion of an investigation of an allegation or complaint of violation of § 287.8 of this part, the investigative report shall be referred promptly for appropriate action in accordance with the policies and procedures of the Department of Justice.

(d) *Unsubstantiated complaints.* When an investigative report does not support the allegation, the employee or officer against whom the allegation was made shall be informed in writing that the matter has been closed unless the appropriate authority determines that no notification be made. No reference to the allegation shall be filed in the official's or employee's official Personnel File.

(e) *Jurisdiction of other Department of Justice organizations.* Nothing in this section alters or limits, is intended to alter or limit, or shall be construed to alter or limit, the jurisdiction or authority conferred upon the Office of the Inspector General, the Office of Professional Responsibility, the Federal Bureau of Investigation, the United States Attorneys, the Criminal Division or the Civil Rights Division, or any other component of the Department of Justice, or any other Order of the Department of Justice establishing policy or procedures for the administration of standards of

conduct within the Department of Justice.

§ 287.11 Disclaimer.

With regard to this part, these regulations provide internal guidance on specific areas of law enforcement authority. These regulations do not, are not intended to, and shall not be construed to exclude, supplant, or limit otherwise lawful activities of the Immigration and Naturalization Service or the Attorney General. These regulations do not, are not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal. The Attorney General shall have exclusive authority to enforce these regulations through such administrative and other means as he may deem appropriate.

Dated: October 5, 1992.

William P. Barr,

Attorney General.

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BILLING CODE 4410-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Requirements for Child-Resistant Packaging; Proposed Requirements for Products Containing Loperamide

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: Under the Poison Prevention Packaging Act of 1970, the Commission is proposing to require child-resistant packaging for products containing more than 0.045 milligrams (mg) of loperamide in a single package. This requirement is proposed because the Commission has preliminarily determined that child-resistant packaging is required to protect children under 5 years of age from serious personal injury and serious illness resulting from ingesting loperamide. Loperamide is used as an antidiarrheal medication that is marketed in both prescription and over-the-counter forms.

DATES: Comments on the proposal should be submitted not later than December 28, 1992.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to the Office of the Secretary, Consumer Product Safety Commission, room 420, 5401 Westbard Avenue, Bethesda, Maryland, telephone (301) 504-0800.

FOR ADDITIONAL INFORMATION CONTACT: Rita A. Orzel, Ph.D., Project Manager, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0477.

SUPPLEMENTARY INFORMATION:

A. Background

Relevant Statutes and Regulations

The Poison Prevention Packaging Act of 1970 (the "PPPA"), 15 U.S.C. 1471-1476, authorizes the Commission to establish standards for the "special packaging" of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance. Special packaging, also referred to as "child-resistant packaging," is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, effectiveness standards have been established for special packaging (16 CFR 1700.15), as has a procedure for evaluating the effectiveness (§ 1700.20). Regulations have been issued requiring special packaging for a number of household products (§ 1700.14). The findings that the Commission must make in order to issue a standard requiring child-resistant ("CR") packaging for a product are discussed below in Section D of this notice. For the purposes of the PPPA, the amount of a substance "in a single package" that triggers the requirement to place the product in CR packaging refers to the total amount in a single retail unit of the substance.

One of the categories of products for which CR packaging is required is prescription drugs intended for oral administration to humans, with specified exemptions. 16 CFR 1700.14(a)(10). Where prescription drugs are subject to a special packaging standard, section 4(b) of the PPPA allows such products to be sold in non-CR packaging only when (1) directed by the prescribing medical practitioner or (2) requested by the purchaser. 15 U.S.C. 1473(b).

For nonprescription (over-the-counter, or "OTC") products subject to special packaging standards, section 4(a) of the PPPA allows the manufacturer or packer to package the product in non-CR packaging only if (1) the manufacturer (or packer) also supplies the substance in CR packages and (2) the non-CR packages bear conspicuous labeling stating: "This package for households without young children." 15 U.S.C. 1473(a). If the package is too small to accommodate this label statement, the package may bear a label stating: "Package not child-resistant." 16 CFR 1700.5(b). The right of the manufacturer or packer to market a single size of the product in noncomplying packaging under these conditions is termed the "single-size exemption."

The Commission may restrict the right to market a single size in noncomplying packaging if the Commission finds that the substance is not also being supplied in popular size packages that comply with the standard. 15 U.S.C. 1473(c). In this case, the Commission may, after giving the manufacturer or packer an opportunity to comply with the purposes of the PPPA and an opportunity for a hearing, order that the substance be packaged exclusively in CR packaging. To issue such an order, the Commission must find that the exclusive use of special packaging is necessary to accomplish the purposes of the PPPA.

Loperamide

Loperamide is an antidiarrheal medication that was first marketed by its patent holder in 1976 as a prescription drug. A capsule preparation of loperamide is available only by prescription and, since this is an oral prescription drug for humans, is required to be in CR packaging. In 1988, however, the Food and Drug Administration granted OTC status to a caplet (formulation ingredients compressed into the shape of a capsule) containing the same amount of loperamide as the prescription product and to a liquid preparation. These forms of the drug are marketed OTC in CR packaging by the original manufacturer.

The patent for loperamide expired in January of 1990, and other manufacturers may now make and market loperamide. One additional supplier has begun marketing a liquid OTC preparation, containing the same amount of loperamide as the original manufacturer's liquid product, in CR packaging.

Loperamide is structurally related to the opium alkaloids and acts by slowing intestinal motility and by reducing stomach and intestinal secretions. Loperamide is not recommended for children less than 2 years of age, as these children appear to be more sensitive to the drug's central nervous system (CNS) effects than are adults. The drug should not be used for any age group if diarrhea is accompanied by fever greater than 101°F or when blood apears in the stool. To prevent toxic accumulation of the drug, loperamide should be used with caution in individuals with liver disorders. Loperamide should not be used for more than 2 days, unless directed by a physician.

The maximum daily nonprescription dosage of loperamide is 8 milligrams (mg) for adults, 6 mg for children 9 to 11 years of age, 4 mg for children 6 to 8 years of age, and 3 mg for children 2 to 5 years of age. Liquid OTC loperamide contains 1 mg of loperamide per 5 milliliters (ml) of liquid, and is currently available in 2-ounce, 3-ounce, and 4-ounce tamper-resistant bottles with CR closures. The OTC caplet form contains 2 mg of loperamide per caplet and currently comes in CR, tamper-resistant unit-dose blister packs containing 6, 12, and 18 caplets. Thus, the OTC loperamide products now on the market are in CR packaging, but other products may come on the market.

The Commission's staff has prepared a briefing package discussing the available information relating to the drug's toxicity, to the economic and environmental effects of the proposed rule, and to the other subjects discussed in this notice. A copy of the staff's briefing package can be obtained from the Commission's Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone 301–504–0800. The information about the toxicity of loperamide is discussed briefly below.

B. Toxicity

Animal and human pharmacological and toxicological data show that overdosage of loperamide can cause stomach and intestinal irritation (nausea, vomiting, abdominal pain, and constipation), abdominal distention and obstruction of the bowel, CNS effects (drowsiness, dizziness, muscular spasms, and consultions), respiratory depression (periodic cessation of breathing, cyanosis, and coma), and death. In case of overdosage, activated charcoal and washing out the stomach are recommended. The patient should be frequently monitored for CNS and respiratory depression because of the prolonged action of loperamide. If signs of CNS or respiratory depression are present, naloxone, a drug which reverses the depressant effects of narcotics, should be administered.

The majority of the incidents of loperamide toxicity reported in the scientific literature occurred in foreign countries and involved the intentional administration of loperamide to children. The symptoms of overdosage ranged from nausea and dizziness to severe and life-threatening effects, including respiratory depression, coma, convulsions, and bowel obstruction and perforation. There are 11 deaths of children under age 5 reported. The smallest dose reported (measured as mg of loperamide per kilogram (kg) of body weight) that resulted in adverse symptoms was 0.045 mg-kg; this (single oral) dose caused bowel obstruction with stool retention for 7 days in a 1-year-old child.

The CPSC Children and Poisoning ("CAP") database for 1989 through March 1992 shows four ingestions of loperamide by children under 5 years of age treated in hospital emergency rooms participating in the National Electronic Injury Surveillance System ("NEISS"). Two of the children were admitted to the hospital.

The American Association of Poison Control Centers' National Data Collection System ("AAPCC") includes cases of exposure reported by participating poison control centers. For 1990, 505 accidental ingestions of loperamide by children under 5 years of age were reported. Of these, 198 were seen by physicians and 75 experienced mild effects (symptoms resolve without treatment) to moderate effects (some medical treatment required). No life-threatening effects or fatalities were attributed to loperamide from this database.

C. Level for regulation

For incidents where the amount of loperamide ingested was known, severe adverse respiratory effects (periodic cessation of breathing, cyanosis, and coma), CNS effects (drowsiness, muscular spasms, and convulsions), and/or gastrointestinal disturbances (abdominal distention, bowel obstruction, and intestinal perforation) were reported following administration of from 0.045 to 2.0 mg/kg of loperamide (with most incidents involving ingestions of between 0.26 and 1.0 mg/kg). In one case, death occurred following a dose of 1.0 mg/kg of loperamide. Insufficient information was available to determine the doses of loperamide involved with the other 10 deaths reported in the medical literature.

Serious illness has been reported after ingestion of 0.045 mg/kg. There is no information about the amount of loperamide that would not cause serious illness, serious injury, or death in infants or children under 2 years of age. Without such data, the Commission's staff recommends that the lowest level known to have caused serious illness in humans (0.045 mg/kg) be reduced by a factor of 10 (referred to as an "uncertainty factor") to take into account biological variability. When this is done for a 10-kg (22.2 lb) child, the staff concludes that loperamide preparations containing more than 0.045 mg of loperamide in a single container should be subject to CR packaging requirements. This amount is contained in one-twentieth of a teaspoon of liquid loperamide or in one-fortieth of a caplet of loperamide.

D. Statutory considerations

1. Hazard to Children

Although the reported cases of death and life-threatening effects involved intentional administration of loperamide, the toxicity data from these incidents show that the amounts of loperamide available in OTC preparations is sufficient to cause serious illness or serious injury in children. Even though the OTC loperamide preparations currently on the market are sold in CR packaging, the Commission preliminarily concludes that a regulation is needed to ensure that future products containing loperamide, including products from additional manufacturers that could be introduced now that loperamide's patent has expired, will be subject to CR requirements.

Pursuant to section 3(a) of the PPPA, 15 U.S.C. 1472(a), the Commission preliminarily finds that because of the toxic nature of loperamide preparations, described above, and the accessibility of such preparations to children in the home, the degree and nature of the hazard to children in the availability of such substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances.

2. Technical Feasibility, Practicability and Appropriateness

In issuing a standard for special packaging under the PPPA, the Commission is required by section 3(a)(2) of the PPPA, 15 U.S.C. 1472(a)(2),

to find that the special packaging is "technically feasible, practicable, and appropriate." Technical feasibility exists when technology exists or readily can be developed and implemented by the effective date to produce packaging conforming to the standards. Practicability means that special packaging complying with the standards can utilize modern mass production and assembly line techniques. Appropriateness exists when packaging complying with the standards will adequately protect the integrity of the substance and not interfere with the intended storage or use. Because all the currently-marketed forms of loperamide are in CR packaging, the Commission preliminarily concludes that special packaging for loperamide preparations is technically feasible, practicable, and appropriate.

3. Reasonableness

In establishing a special packaging standard, section 3(b) of the PPPA requires the Commission to consider the available data concerning whether the standard is reasonable. 15 U.S.C. 1472(b).

After considering the available data, the Commission concludes that there are no data that warrant a conclusion that the proposed rule is not reasonable.

4. Other Considerations

Section 3(b) of the PPPA also requires the Commission, in establishing a special packaging standard, to consider:

a. available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

b. the manufacturing practices of industries affected by the PPPA; and

c. the nature and use of the household substance. 15 U.S.C. 1472(b).

These items have been considered with respect to the various determinations made in this notice.

E. Effective date

The PPPA provides that no regulation shall take effect sooner than 180 days or later than one year from the date such regulation is issued, except that, for good cause, the Commission may establish an earlier effective date if it determines an earlier date to be in the public interest. 15 U.S.C. 1471n. Because all loperamide preparations are currently in child-resistant packaging, the Commission concludes that good cause exists for having the regulation take effect 30 days after promulgation of a final rule. Therefore, it is proposed that the rule become effective 30 days after publication of the final rule, as to all products subject to the rule that are packaged on or after that date.

F. Regulatory Flexibility Act certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et seq.) generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission's Directorate for Economics has prepared a preliminary economic assessment of a rule to require special packaging for loperamide preparations. They conclude that such a requirement would have no effect on current manufacturers and no incremental effect on future manufacturers, since future manufacturers would never have marketed the product in non-child-resistant packaging. Accordingly, for the reasons given above, the Commission concludes that the proposal to require special packaging for products containing loperamide, if issued, will not have any significant economic effect on a substantial number of small entities.

G. Environmental considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the proposed Poison Prevention Packaging Act (PPPA) packaging requirements for topical drug preparations containing loperamide.

The Commission's regulations at 16 CFR 1021.5(c)(3) state that rules requiring special packaging for consumer products normally have little or no potential for affecting the human environment. Analysis of the impact of this proposed rule indicates that CR closures for loperamide preparations will have no significant effects on the environment. This is because the rule will not significantly increase the number of CR closures in use and, in any event, the manufacture, use, and potential disposal of the CR closures present the same potential environmental effects as do the currently used closures.

Therefore, because this proposed rule has no adverse effect on the environment, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

H. Conclusion

For the reasons given above, the Commission proposes to amend 16 CFR 1700.14 as follows:

PART 1700—[AMENDED]

1. The authority citation for part 1700 continues to read as follows:

Authority: Pub. L. 91–601, secs. 1–9, 84 Stat. 1670–74, 15 U.S.C. 1471–76. Secs 1700.1 and 1700.14 also issued under Pub. L. 92–573, sect. 30(a), 88 Stat. 1231.15 U.S.C. 2079(a).

2. Section 1700.14(a) is amended by adding new paragraph (a)(22), reading as follows (although unchanged, the introductory text of paragraph (a) is included below for context):

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(22) *Loperamide.* Products containing more than 0.045 mg of loperamide in a single package (*i.e.*, retail unit) shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c).

* * * * *

Dated: October 8, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92–24910 Filed 10–13–92; 8:45 am]

BILLING CODE 6355–01–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Union Dues Regulations

AGENCY: National Labor Relations Board.

ACTION: Proposed rule; notice of extension of time for filing comments; notice of oral argument.

SUMMARY: The National Labor Relations Board gives notice that it is extending the time for filing comments on the proposed rulemaking for the implementation of the United States Supreme Court's decision in *Communications Workers of America* v. *Beck*, 487 U.S. 735 (1988). However, the oral argument presently scheduled for November 5, 1992, will still be held on that date.

DATES: The comment period which presently ends at the close of business on October 22, 1992, has been extended to the close of business on November 30, 1992. The oral argument presently scheduled for November 5, 1992, will still be held on that date. Persons wishing to be heard at the oral argument should notify the Office of the Executive Secretary by close of business Wednesday, October 21, 1992. Thereafter, the Board will notify interested persons of the time and place of the oral argument, and those who will be scheduled to participate.

ADDRESS: Comments should be submitted in eight copies to: Office of the Executive Secretary, 1717 Pennsylvania Avenue NW., room 701, Washington, DC 20570. Telephone: (202) 254–9430. Persons wishing to be heard at the oral argument should notify the Office of the Executive Secretary, 1717 Pennsylvania Avenue, NW., Washington, DC 20570. Telephone: (202) 254–9430.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, Telephone: (202) 254–9430.

SUPPLEMENTARY INFORMATION:

Background

The Board's notice of proposed rulemaking and original notice of oral argument was published in the **Federal Register** (57 FR 43635) on September 22, 1992. The notice provided that the period for comment ended at the close of business on October 22, 1992. The notice also provided that oral argument would be held on November 5, 1992.

Thereafter, the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) submitted a letter to the Board on October 8, 1992, requesting that the Board extend the 30-day comment period by an additional 60 days (to December 22, 1992) and make an appropriate adjustment in the hearing presently scheduled for November 5, 1992. The AFL–CIO cites the time allowed for comments in the Collective Bargaining in the Health Care Industry rulemaking, 284 NLRB 1515 (1987), compares the importance of the present proposed rulemaking with that proceeding, and contends that a 30-day comment period is not adequate to permit a thorough review of the union experience, considering the logistics of gathering the materials necessary to frame informative comments.

The Board has decided to extend the time for filing comments until the close of business on Monday, November 30, 1992. The Board has further decided, however, to adhere to the date of November 5, 1992, for the purpose of hearing oral argument on the proposed rule published on (57 FR 43635) September 22, 1992. Persons wishing to be heard in the oral argument should notify the Office of the Executive Secretary by close of business Wednesday, October 21, 1992. The Board will thereafter give notice of the time and place of the oral argument and those persons who will be scheduled to participate.

Dated: Washington, DC, October 9, 1992.

By Direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 92–25050 Filed 10–13–92; 8:45 am]

BILLING CODE 7545–01–M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AF10

Reservists' Education; Change of Program of Education

AGENCY: Department of Veterans Affairs, Department of Defense and Department of Transportation.

ACTION: Proposed regulation.

SUMMARY: The Department of Veterans Affairs Nurse Pay Act of 1990 contains a section which affects most of the educational programs VA (Department of Veterans Affairs) administers. The section revises the rules for determining whether an individual can change programs of education. The regulation governing changes of programs of education for veterans receiving benefits under the Montgomery GI Bill—Selected Reserve must be changed in order to bring it into agreement with the law. This proposal will effect this change.

DATES: Comments must be received on or before November 13, 1992 Comments will be available for public inspection until November 23, 1992.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until November 23, 1992.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 233–2092.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs Nurse Pay Act (Pub. L. 101–366) liberalizes the rules for determining whether a veteran or eligible person can change a program of education. On page 865 of the **Federal Register** of January 9, 1992, VA published a notice of intent to amend 38 CFR 21.4234 in order to implement this provision of law. 38 CFR 21.7614, which governs changes of program of education under the Montgomery GI Bill—Selected Reserve contains a reference to 38 CFR 21.4234 which will no longer be accurate once the proposed 38 CFR 21.4234 becomes final. This revision will eliminate that inaccuracy. 38 CFR 21.4234, as proposed in the **Federal Register** of January 9, 1992, will be used in the administration of the Montgomery GI Bill—Selected Reserve.

The Department of Veterans Affairs, the Department of Defense and the Department of Transportation have determined that this amended regulation does not contain a major rule as that term is defined by Executive Order 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs, the Secretary of Defense and the Secretary of Transportation have certified that this amended regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation affects only individuals. It will have no significant economic impact on small entities, *i.e.*, small businesses, small private and nonprofit organizations and small governmental jurisdictions.

VA, the Department of Defense and the Department of Transportation find that good cause exists for making the amendments to § 21.7614, like the provision of law they implement, retroactively effective on June 1, 1991. This amended regulation is intended to achieve a benefit for individuals. The maximum benefits intended in the legislation will be achieved through prompt implementation. Hence, a delayed effective date would be contrary to statutory design, would complicate administration of the provision of law; and might result in the denial of a benefit to someone who is entitled to it.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 12.609.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: December 16, 1991

Edward J. Derwinski,

Secretary of Veterans Affairs.

Approved: June 17, 1992.

Robert M. Alexander,

Lieutenant General, USAF Deputy Assistant Secretary (Military Manpower & Personnel Policy) U.S. Department of Defense.

Approved: August 24, 1992.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Chief, Office of Readiness and Reserve.

For the reasons set out in the preamble, 38 CFR part 21, subpart L is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L continues to read as follows:

Authority: 10 U.S.C. Ch. 106; 38 U.S.C. 501(a).

2. Section 21.7614 and its authority citation are revised to read as follows:

§ 21.7614. Change of program.

In determining whether a change of program of education may be approved for the payments of educational assistance, VA will apply § 21.4234 of this part.

Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3691; Pub. L. 98–525, Pub. L. 101–366) (June 1, 1991).

[FR Doc. 92–24923 Filed 10–13–92; 8:45 am]
BILLING CODE 8320–01–M

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38 CFR Part 21

RIN 2900–AE49

Reservists' Education; Procedural Due Process and the Montgomery GI Bill—Selected Reserve

AGENCY: Department of Defense, Department of Transportation (Coast Guard) and Department of Veterans Affairs.

ACTION: Proposed Regulations.

SUMMARY: VA (Department of Veterans Affairs) has been reviewing regulations for the purpose of improving due process procedures. This proposal provides that in certain instances if claimants or beneficiaries under the Montgomery GI Bill—Selected Reserve can show good cause why they did not comply with the time limits within which they are required to act, those time limits do not apply. This proposal will provide increased due process to reservists affected by time limits.

DATES: Comments must be received on or before November 13, 1992. Comments will be available for public inspection until November 23, 1992.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until November 23, 1992.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 233–2092.

SUPPLEMENTARY INFORMATION: Various regulations are amended to ensure, to the maximum extent practicable, that notice of any time limit within which a reservist must act, to perfect a claim or challenge an adverse VA decision, is effectively communicated to the reservist. Consequently, the proposal would permit an extension of time limits within which a reservist must act when a reservist can show good cause exists for failure to meet the limits. This proposal is similar to final regulations governing the Montgomery GI Bill—Active Duty which appeared on pages 11671 and 11672 of the **Federal Register** of March 20, 1991.

The Department of Defense, the Department of Transportation and the Department of Veterans Affairs have determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Defense, the Secretary of Transportation and the Secretary of Veterans Affairs have certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 12.609.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: December 30, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Approved: June 17, 1992.

Robert M. Alexander,

Lieutenant General, USAF, Deputy Assistant Secretary, (Military manpower & Personnel Policy), U.S. Department of Defense.

Approved: August 24, 1992.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Chief, Office and Readiness and Reserve,

For the reasons set out in the preamble, 38 CFR part 21, subpart L is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L continues to read as follows:

Authority: 10 U.S.C. Ch. 106; 38 U.S.C. 501(a).

2. In § 21.7532 paragraph (d) and its authority citation are revised to read as follows:

§ 21.7532 Time limits.

* * * * *

(d) *Failure to furnish form or notice of time limit.* (1) VA's failure to furnish any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the periods allowed for these actions.

(2) Time limits within which reservists are required to act to perfect a claim or challenge an adverse VA decision may be extended for good cause shown. When an extension is requested after expiration of a time limit, the action required of the reservist must be taken concurrently with or prior to the filing of a request for extension of the time limit, and good cause must be shown as to why the required action could not have been taken during the original time period and could not have been taken sooner than it was. Denials of time limit extensions are separately appealable issues.

Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3431, 5101, 5113.

* * * * *

3. In § 21.7639 paragraph (b)(2) and its authority citation are revised to read as follows:

§ 21.7639 Conditions which result in reduced rates.

* * * * *

(b) *Withdrawals and nonpunitive grades.* * * *

(2) The reservist submits a description of the circumstances in writing to VA either within one year from the date VA notifies the reservist that he or she must submit the mitigating circumstances, or at a later date if the reservist is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances.

Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3471, 5101, 5113.

* * * * *

[FR Doc. 92-24922 Filed 10-13-92; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 525 and 530

[Docket No. 92-29]

Free Time and Demurrage Charges on Import Property at the Port of New York; Truck Detention at the Port of New York

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to remove 46 CFR part 525, *Free Time and Demurrage Charges on Import Property at the Port of New York* and 46 CFR part 530, *Truck Detention at the Port of New York*. The Commission believes that these regulations may now be outdated and no longer necessary in the face of the significant change in transportation circumstances accompanying the shift to containerized cargo at the Port. The Commission further believes that current conditions at the Port may no longer warrant this unique Federal regulation.

DATES: Comments on or before November 13, 1992.

ADDRESSES: Comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION:

Background

The Federal Maritime Commission ("Commission") has undertaken a comprehensive review of its regulations under the Shipping Act, 1916, 46 U.S.C. app. 801, *et seq.*, and the Shipping Act of 1984, 46 U.S.C. app. 1701, *et seq.*, to identify and eliminate outdated or unnecessary regulatory provisions.

By *Notice of Inquiry* published in the **Federal Register** on June 5, 1992 (57 FR 24006) ("*Inquiry*"), the Commission solicited comment on whether the transportation conditions which originally prompted the promulgation of parts 525 and 530 may have changed to an extent rendering these regulations unnecessary. These regulations govern free time and demurrage on import property, and truck detention, respectively, at the Port of New York ("Port") and were promulgated to relieve traffic congestion at the Port.*

Comments

Forty-six comments in response to the *Inquiry* were submitted by: an ocean common carrier, conferences of such carriers, trucking companies, a freight forwarder association and a marine terminal operator ("MTO") (see Appendix).

While the majority of commenters support retention of parts 525 and 530, comments in support by and large did not respond to the invitation in the Notice of Inquiry to address the effect which a shift from general cargo to containerized cargo may have on the continuing justification for this unique regulation. The reasons offered by individual commenters to support these rules included claims that: (1) Long delays still occur entering and exiting from terminals; (2) the rule has effectively encouraged some efficiency on the part of the MTOs; (3) elimination of the rule would result in higher costs for motor carriers, perhaps forcing some out of business; (4) the rules should be modified to increase truck detention penalties and resolve certain other

*Part 525 defines "adequate" free time for import property at the Port to be five days, and prescribes that free time for such property shall not be less than five days, absent special circumstances. It also prescribes the method of assessing demurrage charges.

Part 530 was promulgated by the Commission to establish a system to ameliorate truck congestion at the Port, with disputes concerning claims for penalties to be settled by an adjudicator selected by the Commission. The regulations set forth appointment/non-appointment procedures to be followed by motor carriers and terminal operators.

problems encountered by motor carriers; (5) a truck detention rule should be promulgated to cover all ports; and (6) new procedures for submitting claims and selecting an adjudicator and arbitration board should be established.

Three commenters believe that parts 525 and 530 should be eliminated. They assert that: (1) The majority of the cargo moving through the Port is now containerized; (2) congestion and unreasonable delays at the Port no longer exist; (3) there appears to be no current abuse of the rules relating to free time on import cargo; (4) MTOs would continue to publish tariff rules on free time and demurrage, as well as truck detention at the Port even if the regulations are removed; (5) the operations of motor carriers and the removal of import cargo at the Port are as efficient as most other ports in the United States; (6) there is no continuing need to maintain these rules as a matter of sound and efficient regulation; and (7) New York should not be singled out as the only port subject to these rules.

Discussion

Following a review of the comments, the rules themselves and the changes in transportation circumstances experienced by the Port of New York, the Commission believes that the rules at 46 CFR parts 525 and 530 may be outdated and no longer necessary. Therefore, the Commission proposes to eliminate 46 CFR parts 525 and 530 from the Code of Federal Regulations.

The majority of comments submitted by individual trucking companies adhere to the same one-page format. Very few details are given to support general allegations regarding delay in processing and delivery of their equipment. When examples or specific details are offered, the circumstances appear unique to that specific commenter.

By and large, comments do not discuss or provide specific examples regarding either how the present rules have been useful, in a practical as opposed to theoretical sense, in addressing and resolving the general difficulties alluded to or how elimination of the rules would have a direct adverse effect. Indeed, the strongest support appears to come from those commenters who assert only that: "The rule, at present, encourages some efficiency on the part of the terminal operators * * *," without explaining why. This claim appears to be offset by other comments in support of the rules which, paradoxically, point to the inadequacy or the ambiguity of the present rules. The comments do not consider whether or why the Commission is better suited than local authorities to address and resolve particular sources of delay. To take two examples, commenters have not stated why they believe the Commission is best suited to regulate procedures for issuing terminal gate passes or the treatment of chassis servicing and repair. Indeed, it could be inferred from comments that the mere presence of the rules may have presented an obstacle to attempts by carrier and port entities to resolve local issues on a local basis. For at least these reasons, the record does not appear to justify an extension of these rules to other ports as a few commenters suggested.

Moreover, the comments do not dispute the basis for the Commission's earlier determination, repeated in the *Inquiry*, that part 525 does not apply to containerized cargo. Nor do they dispute that such cargo now comprises the majority of liner cargo movements into the Port. In that regard, the historical perspective to be given part 525 may be apparent from the conclusion presented in § 525.1(a) itself that five days free time "is adequate * * * under present conditions." The underlying conditions having fundamentally changed, the Rules may not withstand an attempt at re-justification. The Commission believes that identical considerations apply to re-justification of part 530.

Because the rules at issue apply only to the Port of New York, only entities serving or operating there submitted comments. It is thus noteworthy that no argument was made that the Port of New York continues to suffer from unique circumstances which, from a regulatory perspective, would distinguish it from other large ports. No specific reasons are given why the Commission should regulate free time and demurrage and truck detention at only one port or otherwise target the Port for special regulation. To the contrary, it appears that the congested port conditions which existed at the Port of New York 30 years ago have eased in the face of more efficient container handling operations.

To the extent that commenters face transportation-related obstacles to efficient operation at the Port, they are not without meaningful recourse in another, more appropriate, forum. As one of the commenters recognized, the Federal Highway Administration ("FHWA") has initiated an advance notice of proposed rulemaking in Docket No. 92-14, Management Systems. Comment is requested in that proceeding concerning implementation of section 1034 of the Intermodal Surface Transportation Efficiency Act ("ISTEA"). ISTEA requires the Secretary of Transportation to issue regulations for State implementation of intermodal transportation systems. The Commission encourages interested persons to raise problems involving transportation bottlenecks in the FHWA proceeding.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this Proposed Rule, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental organizations. "The criteria contained in this section requires the agency head to examine both the degree of impact as well as the dispersion of that impact." S. Rep. No. 878, 96th Cong., 2d Sess. 14 (1980) reprinted at 1980 U.S. Code Cong. and Admin. News, p. 2788 at 2801. The Commission does not believe that the removal of parts 525 and 530 under the circumstances described above will result in either significant impact or impact upon a substantial number of small entities.

This proposed rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 525

Freight, Harbors, Maritime carriers, Motor carriers, Penalties, Reporting and Recordkeeping requirements.

46 CFR Part 530

Freight, Harbors, Maritime carriers, Motor carriers, Penalties, Reporting and Recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553; sections 17 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 816, 841(a)); sections 10 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1709, 1716); Parts 525 and 530 of Title 46 of the Code of Federal Regulations are proposed to be amended as follows:

PART 525—[REMOVED]

Part 525 is removed.

PART 530—[REMOVED]

Part 530 is removed.

By the Commission.

Joseph C. Polking,

Secretary.

Appendix—List of Commenters

1. International Motor Freight, Inc.*
2. Richmond Express Company *
3. Inter-Metro Freight, Inc.*
4. Se Trux, Inc.*
5. David P. McCarthy, Inc.*
6. Clenery Inc.*
7. American Logistical Express, Inc.*
8. Rail Head Services, Inc.*
9. New Jersey Motor Truck Association *
10. Linden Motor Freight Co., Inc.*
11. Nationwide Transport & Warehouse, Inc.*
12. J&S Trucking Service, Inc.*
13. BC Transportation, Inc.*
14. JMT Jon-Mar Trucking Co., Inc.*
15. Sea Lane Express, Inc.*
16. New Jersey Motor Truck Association on behalf of Bi-State Harbor Carriers Conference*
17. Coviello Transportation Co., Inc.*
18. Veeco Services, Inc.*
19. Export Transport Co., Inc.*
20. Dray-Con Transport, Inc.*
21 Jackson & Johnson, Inc.*
22. Clinton Cartage, Inc.*
23. Transways Motor Express Co., Inc.*
24. Coty Enterprises, Ltd.*
25. MTI, Inc.*
26. CASCO Services, Inc.*
27. Courier Systems *
28. Commercial Transportation, Inc.*
29. The N.Y. Foreign Freight Forwarders and Brokers Ass'n.**
30. Aqua-Gulf Corporation *
31. Port East Transfer, Inc.*
32. Inter-American Freight Conference ***
33. Sea-Land Service, Inc.***
34. The Transpacific Westbound Rate Agreement ***
35. Container Port Group *
36. Atlantic Coast Express *
37. Jay-Dee Fast Delivery *
38. Engels Trucking Corp.*
39. A&D Express, Inc.*
40. Universal Maritime Service Corp.***
41. Glendale Carriers Corp.***
42. American Trucking Associations ***
43. The North Europe-USA Rate Agreement ***
44. Fedway Associates, Inc.**
45. Federation Warehouse Corp.*
46. Lomma Trucking and Rigging, Inc.*

* Commented on Part 530 only.
** Commented on Part 525 only.
*** Commented on both Parts 525 and 530.

[FR Doc. 92-24828, Filed 10-13-92; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 13

[FO Docket No. 92-206; FCC 92-394]

Privatization of Examinations for Commercial Radio Operator Licenses and Clarification of Certain Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Correction.

SUMMARY: This document contains corrections to the Notice of Proposed Rulemaking (FO Docket No. 92-206; FCC 394) which was published on September 11, 1992, (57 FR 41718). The Comment dates have been changed to reflect the longer period given in the text of the full document.

DATES: Comments must be submitted on or before November 2, 1992, and reply comments on or before November 17, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ana J. Curtis, Field Operations Bureau, (202) 632-7240.

Richard M Smith,

Chief, Field Operations Bureau.

[FR Doc. 92-24818 Filed 10-13-92; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-583, RM-7052]

Radio Broadcasting Services; Van Wert, OH, and Monroeville, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of.

SUMMARY: The Commission denies the request of Atlantic Resources Corporation, licensee of Station WBYR (FM), Van Wert, Ohio, to reallot Channel 255B from Van Wert to Monroeville, Indiana. See 54 FR 53657, December 29, 1989. The Commission found that the public interest would be better served by retaining a first competitive local aural transmission service at the larger and less well-served community of Van Wert than by reallotting the channel to Monroeville. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-583, adopted September 22, 1992, and released October 7, 1992. 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, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92-24815 Filed 10-13-92; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-229, RM-8083]

Radio Broadcasting Services; Brookings, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by KURY Radio, Inc., proposing the substitution of Channel 237C2 for Channel 237C3 at Brookings, Oregon, and the modification of Station KURY's license to specify operation on the higher class channel. Channel 237C2 can be allotted to Brookings in compliance with the Commission's minimum distance separation requirements at the transmitter site specified in Station KURY's outstanding construction permit (BPH-900814IE) at coordinates North Latitude 42-07-23 and West Longitude 124-17-56. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 237C2 at Brookings or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before November 27, 1992, and reply

comments on or before December 14, 1992.

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: Caressa D. Bennet, Esq., 2120 L Street, NW., suite 300, Washington, DC 20037 (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. 92–229, adopted September 23, 1992, and released October 7, 1992. 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, 1990 M Street, NW., suite 640, 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,

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

[FR Doc. 92–24816 Filed 10–13–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–228, RM–8079]

Radio Broadcasting Services; Allouez, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Michael R. Walton proposing the allotment of Channel 294C3 to Allouez, Wisconsin, as that community's first broadcast service. The coordinates for Channel 294C3 are 44–30–50 and 88–02–57. There is a site restriction 7.2 kilometers (4.4 miles) north of the community.

DATES: Comments must be filed on or before November 27, 1992, and reply comments on or before December 14, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Malcolm G. Stevenson, Schwartz, Woods & Miller, The Dupont Circle Building, suite 300, 1350 Connecticut Avenue, NW., Washington, DC 20036–1702.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–228, adopted September 24, 1992, and released October 7, 1992. 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, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422.

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* contact.

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,

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

[FR Doc. 92–24177 Filed 10–13–92; 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 11 Plants From the Koolau Mountain Range, Island of Oahu, 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 11 plants: *Chamaesyce deppeana* ('akoko), *Cyanea truncata* (haha), *Cyrtandra crenata* (ha'iwale), *Cyrtandra polyantha* (ha'iwale), *Eugenia koolauensis* (nioi), *Hesperomannia arborescens* (no common name), *Lobelia oahvensis* (no common name), *Lycopodium nutans* (wawae'iole), *Melicope lydgatei* (alani), *Rollandia crispa* (NCN), and *Tetraplasandra gymnocarpa* ('ohe'ohe). All but four of the species are or were endemic to the Koolau Mountain Range on the island of Oahu, Hawaiian Islands; the exceptions are or were found on the the islands of Kauai, Molokai, Lanai, Maui, and/or in the Waianae Mountains of Oahu, as well as the Koolau Mountains. The 11 plant species and their habitats have been variously affected or are currently threatened by one or more of the following: habitat degradation by trampling and/or predation by wild, feral, or domestic animals (pigs, goats, cattle, rats, slugs); competition for space, light, water, and nutrients by naturalized, introduced vegetation; habitat loss from fires; trampling due to military training exercises; and recreational activities. 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 from stochastic events and/or from reduced reproductive vigor. This proposal, if made final, would implement the Federal protection and recovery provisions provided by the Act. If made final, it would also compliment 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

14, 1992. Public hearing requests must be received by November 30, 1992.

ADDRESSES: Comments, public hearing requests, 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).

SUPPLEMENTARY INFORMATION:

Background

Chamaesyce deppeana, Cyanea truncata, Cyrtandra crenata, Cyrtandra polyantha, Eugenia koolauensis, Hesperomannia arborescens, Lobelia oahuensis, Lycopodium nutans, Melicope lydgatei, Rollandia crispa, and *Tetraplasandra gymnocarpa* are either endemic to or have their largest or best known populations in the Koolau Mountain Range on the eastern side of the island of Oahu, Hawaii. Four of these species are or were known from regions other than the Koolau Mountains. *Eugenia koolauensis* was historically known from the island of Molokai. *Hesperomannia arborescens* is known also from the islands of Molokai and Maui, and is extinct on the island of Lanai. *Lycopodium nutans* once grew on the island of Kauai but is now found only in the Koolau Mountains of Oahu. *Tetraplasandra gymnocarpa* is restricted to the island of Oahu, including the Koolau Mountains with one population possibly remaining in the Waianae Mountains.

The island of Oahu is formed from the remnants of two large shield volcanoes, the younger Koolau volcano on the east and the older Waianae volcano to the west (Department of Geography 1983). Their original shield volcano shape has been lost as a result of extensive erosion, and today these volcanoes are called mountains or ranges, and consist of long, narrow ridges. The Koolau Mountains were built by eruptions that took place primarily along a northwest-trending rift zone (Macdonald *et al.* 1983) and formed a range now approximately 37 miles (mi) (60 kilometers (km)) long (Foote *et al.* 1972). Median annual rainfall for the Koolau Mountains varies from 50 to 250 inches (in) (130 to 640 centimeters (cm)), most of which is received at higher elevations along the entire length of the windward (northeastern) side (Taliaferro 1959).

The vegetation communities of the Koolau Mountains, especially in the upper elevations to which many of the proposed plants are restricted, are primarily lowland mesic and wet forest dominated by *Metrosideros polymorpha* ('ohi'a) and/or other tree or fern species. Much of the Koolau Mountain Range is covered with vegetation composed of alien plant species. Most of the remaining negative vegetation is restricted to steep valley headwalls and inaccessible summit ridges. The windswept ridges are very steep and are characterized by grasses, ferns, and low-growing, stunted shrubs (Gagné and Cuddihy 1990).

The land that supports these 11 plant species is owned by the City and County of Honolulu, the State of Hawaii (including land classified as natural area reserve and forest reserve), the Federal government, and various private parties. Plants on Federal land are located on the boundary of Schofield Barracks Military Reservation, under the jurisdiction of the U.S. Army, and Lualualei Naval Reserve, under the jurisdiction of the U.S. Navy. Populations of five species grow on land leased by the U.S. Army from private parties and the State.

Discussion of the 11 Species Proposed for Listing

P.E. Boissier (1862) described *Euphorbia deppeana* based on an 1835 collection by Ferdinand Deppe that had been erroneously labelled as being from California (Mullspaugh 1916, Sherff 1941). Otto and Isa Degener and Leon Croizat accepted the elevation of the section *Chamaesyce* to the generic level and published the necessary combinations for the Hawaiian species (Croizat 1943; Degener and Croizat 1936a, 1936b, 1937; Koutnik 1987; Koutnik and Huft 1990). Other names by which *Chamaesyce deppeana* has been known are *Anisophyllum californicum* (Koutnik 1987), *Chamaesyce festiva* (Degener and Croizat 1936b), *Euphorbia festiva* (Sherff 1936), and *E. pauciflora* (Koutnik and Huft 1990).

Chamaesyce deppeana, a member of the spurge family (Euphorbiaceae), is an erect subshrub up to 4 feet (ft) (1.2 meters (m)) tall with fuzzy branches. The hairless leaves, generally oval-shaped and often notched at their tips, are between 0.2 and 0.8 in (6 and 20 millimeters (mm)) long and 0.2 and 0.5 in (5 and 12 mm) wide; they are arranged in two opposite rows along the stem. The leaf margins are usually toothed, rarely toothless. The small, petalless flower clusters (cyathia), 0.06 to 0.1 in (1.5 to 3 mm) wide, are borne singly in the leaf axils (point between the stem and leaf stalk) and produce small capsules about 0.1 in (2 mm) long. Seeds have not been observed. This species is distinguished from others in the genus by the following combination of characters: leaves arranged in two rows on opposite sides of the branches, leaves glabrous, leaf apex notched, leaf margin toothed, and cyathia width (Boissier 1862, Koutnik and Huft 1990, Sherff 1936).

Historically, *Chamaesyce deppeana* was known only from southern Oahu. Because the few collections that were made were collected prior to the 20th century, it was thought to be extinct (Koutnik and Huft 1990). In 1986, Joel Lau and Sam Gon of The Nature Conservancy of Hawaii (TNCH) rediscovered *C. deppeana* on State land in the southern Koolau Mountains of Oahu in Nuuanu Pali Wayside State Park near the Pali Lookout, a popular tourist attraction (Hawaii Heritage Program (HHP) 1991a). About 50 to 100 individuals grow near there, with such plant species as 'ohi'a, *Bidens sandvicensis* (ko'oko'olau), *Casuarina equisetifolia* (common ironwood), and *Phyllanthus distichus* (pamakani mahu) (Hawaii Plant Conservation Center (HPCC) 1990a; Joel Lau, TNCH, pers. comm, 1991; John Obata and Steve Perlman, HPCC, pers. comms., 1991). The most visible and accessible plants, comprising about 30 percent of the population, are confined to a 200 square foot (sq ft) (20 sq m) area, portions of which extend to within 15 ft (5 m) of the Pali Lookout parking lot (HHP 1991a). The remaining plants are scattered on an adjacent steep, exposed, windswept slope growing with grasses and shrubs (HHP 1991a; J. Lau, pers. comm., 1991). This species is typically found between elevations of 30 and 330 ft (10 and 100 m) (Center for Plant Conservation (CPC) 1989b, HHP 1991a, HPCC 1990a, Koutnik and Huft 1990). The major threats to the single known population of *Chamaesyce deppeana* are competition for water, space, light, and nutrients with various alien plant species (common ironwood, *Paspalum conjugatum* (Hilo grass), and *Schinus terebinthifolius* (Christmas berry)), and stochastic extinction due to the limited number of individuals and restricted range. Fire and impact by humans threaten the species as well.

Cyanea truncata was first collected on the Punaluu Valley Trail in 1911 by Joseph Rock, and was placed by him in the genus *Rollandia* (Rock 1913). On further examination, Rock (1917) transferred the species to the closely related genus *Cyanea* because of its free staminal column. Charles N. Forbes (1916) described and named a specimen

from Waiahole Valley *Cyanea juddii*, which Rock later reduced to synonymy under *Cyanea truncata* (Rock 1919). Harold St. John (1939) recognized this taxon at the varietal level and published the combination *C. truncata* var. *juddii*. In 1987, St. John, questioning the validity of the characters used to delineate the genus *Cyanea*, transferred all taxa of *Cyanea* to another closely related genus, *Delissea* (St. John 1987, St. John and Takeuchi 1987). Few botanists have accepted St. John's taxonomy for this group; the majority continue to recognize the genus *Cyanea*, and the latest revision of the family does not recognize *C juddii* as a species or variety (Lammers 1990). The epithet *truncata* refers to the plants' occasionally truncate leaf base.

Cyanea truncata, of the bellflower family (Campanulaceae), is an unbranched or sparsely branched shrub covered with small sharp prickles. The oval leaves, which are widest above the middle, are 8 to 24 in (22 to 60 cm) long and 4 to 10 in (10 to 26 cm) wide, and are lined with hardened teeth along the margins. The upper surface of the leaf is hairless; the lower surface is hairy, has sparse projections, and is pale green. Clusters of 8 to 40 white flowers with magenta stripes are produced on horizontal or hanging stalks between 2 and 12 in (4 to 28 cm) long. Each slightly curved flower is 1.3 to 1.7 in (32 to 42 mm) long and about 0.3 in (7 mm) wide and has spreading corolla lobes that are one-fourth to one-half as long as the flower. The fruits are round orange berries about 0.4 in (9 mm) long that contain many tiny seeds. *Cyanea truncata* is distinguished from other members of this genus by the length of the flower cluster stalk, and the size of the flowers and flower lobes (Degener 1932a; Forbes 1916; Lammers 1990; Rock 1913, 1919; St. John 1939).

Historically, *Cyanea truncata* was known from Punaluu, Waikane, and Waiahole in the northern Koolau Mountains of Oahu (HHP 1991b2 to 1991b4). One population of at least two individuals was known to exist in "Hidden Valley," a drainage northwest of Kaaawa Valley that terminates at Kaaawa Point in the Koolau range (HHP 1991b1); however, that population was destroyed by feral pigs (CPC 1989a, 1989b, 1990). A significant discovery of 20 individuals growing on private land along a gully floor further upstream from the site of the destroyed population was made by John Obata of the Hawaii Plant Conservation Center (HPCC) in August, 1991. (J. Obata, pers. comm., 1991). That is the only known population of this species. *Cyanea truncata* typically grows on windward slopes in mesic to wet forests at elevations between 800 and 1,300 ft (240 and 400 m) (HHP 1991b1, Lammers 1990). Associated plant species include *Aleurites moluccana* (kukui), *Cyrtandra propinqua* (ha'iwale), *Neraudia melastomifolia* (ma'aloa), *Pisonia umbellifera* (papala kepau), and *Piper methysticum* ('awa) (Wagner *et al.* 1990; J. Lau and J. Obata, pers. comms., 1991). The major threats to *Cyanea truncata* are habitat degradation and depredation by feral pigs, competition with invasive alien plant species (*Clidemia hirta* (Koster's curse) and *Psidium cattleianum* (strawberry guava)), and stochastic extinction and/or reduced reproductive vigor due to the small number of remaining individuals.

Cyrtandra crenata was first described by Harold St. John and William Storey (1950) from a specimen that they had collected on the Waikane-Schofield Trail. The specific name refers to the rounded teeth of the leaf margin (St. John 1966).

Cyrtandra crenata, a member of the African violet family (Gesneriaceae), is a shrub 3 to 7 ft (1 to 2 m) tall with few branches. The leaves are arranged in whorls of three, tufted at the end of branches; they are generally elliptic or lance-shaped, 4.7 to 11 in (12 to 28 cm) long and 1.6 to 3.1 in (4 to 8 cm) wide, and have toothed margins. The upper leaf surface is generally hairless and has a wrinkled texture; the lower surface has only sparse hairs. Dense clusters of three to seven white flowers, covered with thick brown hair, arise from the leaf axils. The calyx is bilaterally symmetrical, with the three upper lobes somewhat longer then the two lower lobes. The curved, funnel-shaped flowers, about 0.9 in (24 mm) long and 0.2 in (4 mm) wide, develop into fleshy ellipsoid berries about 0.7 in (1.8 cm) long that contain numerous tiny seeds. The berries, as well as various other plant parts, are covered with short-stalked, brownish, hemispherical glands. *Cyrtandra crenata* is distinguished from other species in the genus by the combination of its three-leaf arrangement, bilaterally symmetrical calyx, and brownish, hemispherical glands (St. John 1966, St. John and Storey 1950, Wagner *et al.* 1990).

Historically, *Cyrtandra crenata* was known from Waikane Valley along the Waikane-Schofield Trail in the Koolau Mountains (HHP 1991c1, St. John 1966, St. John and Storey 1950). It now remains below that trail, about 0.5 mi (0.8 km) from its historical location, on a boundary of private and State land (HHP 1991c2). This population has not been observed since 1947 and, although the number of remaining individuals is not known, it is thought the number of remaining individuals is not known, it is thought to be very low. This species typically grows in ravines or gulches in mesic to wet forests between elevations of 1,250 and 2,400 ft (380 and 730 m) with associated plant species such as 'ohi'a, *Dicranopteris linearis* (uluhe), and *Machaerina angustifolia* ('uki) (Wagner *et al.* 1990; S. Perlman, pers. comm., 1991). The primary threat to this species is stochastic extinction and/or reduced reproductive vigor due to the species' restricted range and the small number of individuals that are thought to exist.

On the basis of a collection by Wilhelm Hillebrand, C.B. Clarke (1883) described *Cyrtandra polyantha*, choosing the specific epithet to refer to the many-flowered clusters (St. John 1966). A description of *C. triflora* by Hillebrand (1888) is believed to be, in part, a description of *C. polyantha* (Wagner *et al.* 1990).

Cyrtandra polyantha, a member of the African violet family, is an unbranched or few-branched shrub 3 to 10 ft (1 to 3 m) in height. Its leathery, elliptic, unequal leaves are 2 to 6.3 in (5 to 16 cm) long and 0.7 to 2 in (1.8 to 5.2 cm) wide and attached oppositely along the stems. The upper surface of the leaves is conspicuously wrinkled and usually hairless, with the lower surface moderately to densely covered with pale brown hairs. Seven to 12 flowers are grouped in branched clusters in the leaf axils. The white petals, fused to form a cylindrical tube about 0.5 in (12 mm) long, emerge from a radically symmetrical calyx, 0.2 in (5 mm) long, that is cleft from one-half to two-thirds its length. Each calyx lobe, narrowly triangular in shape, is sparsely hairy on the outside and hairless within. The fruits are white oval berries about 0.6 in (1.6 cm) long that contain many seeds about 0.02 in (0.5 mm) long. *Cyrtandra polyantha* is distinguished from other species in the genus by the texture and hairiness of the leaf surfaces and the length, shape, and degree of cleft of the calyx. This species differs from *C. crenata* by the lack of short-stalked glands and by its leathery leaves, opposite leaf arrangement, and radially symmetrical calyx (Clarke 1883, St. John 1966, Wagner *et al.* 1990).

Historically, *Cyrtandra polyantha* was known from the Kalihi region and from Kulepiamoa Ridge above Niu Valley on the leeward (southwest) side of the southern Koolau Mountains (HHP 1991d2, 1991d3; St. John 1966). Two populations, located further south on Kuliouou summit ridge and at the

northwest head of Hahaione Valley (HHP 1991d1, 1991d4), are approximately 1 mi (1.6 km) apart on private and State land. One of the populations has not been visited within the past 50 years, it is not known how many individuals remain. The most recently observed population, last seen in 1953, consists of one individual. The total number of extant individuals is not known, although only a few are believed to remain on ridges of disturbed mesic valleys in 'ohi'a forests at elevations between 1,600 and 2,000 ft (490 and 610 m) (HHP 1991d1, 1991d2, 1991d4). *Cyrtandra polyantha* probably grows in association with 'uki, uluhe, *Broussaisia arguta* (kanawao), *Coprosma foliosa* (pilo), and *Psychotria* (kopiko), species commonly found in the 'ohi'a-dominated forests of the Koolau Mountains (S. Perlman, pers. comm., 1991). The primary threat to *Cyrtandra polyantha* is stochastic extinction and/or reduced reproductive vigor due to the small number of remaining individuals and their restricted distribution.

Eugenia koolauensis was first described by Otto Degener (1932b) from a specimen that he and K.K. Park collected from Kiapapau Valley in the Koolau Mountains; it is named after its type locality. In 1957, Kenneth Wilson and Joseph Rock described a new species, *E. molokaiensis*, based upon a collection made by Rock in 1918 from Maunaloa on the island of Molokai (Wilson 1957). Current classification synonymizes the two species (Wagner *et al.* 1990).

Eugenia koolauensis, a member of the myrtle family (Myrtaceae), is a small tree or shrub between 7 and 23 ft (2 and 7 m) tall with branch tips covered with dense brown hairs. The leathery, oval or elliptic leaves 0.8 to 2 in (2p to 5 cm) long and 0.4 to 1.3 in (1 to 3.3 cm) wide, are densely hairy on the lower surface and have margins that curve under the leaves. One or two flowers grow from the leaf axils on stalks 0.04 to 0.3 in (1 to 8 mm) long. The hypanthium (basal portion of the flower) is cone-shaped, about 0.1 in (3 mm) long, and hairy. The four sepals of unequal length that comprise the hypanthium are attached to a circular nectary disk (fleshy, nectar-producing structure). The four white petals, which are oval or elliptic, 0.2 to 0.3 in (4 to 8 mm) long, and enclose numerous white stamens, are also attached to the disk. The fruits are fleshy, yellow to red, oval berries, 0.3 to 0.8 in (0.8 to 2 cm) long, that usually contain one round seed. *Eugenia koolauensis* is one of two species in the genus that are native to Hawaii; it differs from the others species in having leaves that are densely hairy on the lower surface and leaf margins that curve under the leaves (Degener 1932b, Wagner *et al.* 1990, Wilson 1957).

Eugenia koolauensis was historically known from Maunaloa on western Molokai and from Kaipapau Valley, Hanaimoa and Kahawainui gulches, and a gully southeast of Kahuku on Oahu (HHP 1991e1, 1991e2, 1991e4, 1991e6, 1991e7; Wilson 1957). This species is no longer believed to be extant on the island of Molokai because the region where the first two individuals were found has been converted to pineapple fields (CPC 1990). On Oahu, five populations now remain on State and private land in Papali Gulch, the north fork of Kamananui Stream, in the regions of Pupukea and Paumalu in the northern Koolau Mountains, and at Hawaiiloa, a disjunct population in the southeastern Koolau Mountains (Garnett 1990; HHP 1991e3, 1991e5, 1991e8; HPCC 1991; J. Obata and S. Perlman, pers. comms., 1991) A total of fewer than 60 individuals of this species remain in dry gulches and ridges in mesic forests dominated by 'ohi'a and/or *Diospyros sandwicensis* (lama) at 350 to 1,000 ft (100 to 300 m) in elevation (HHP 1991e3, 1991e5, 1991e8; Wager *et al.* 1990). Other associated plant species include *Myrsine lessertiana* (kolea), *Nestegis sandwicensis* (olopua), *Pleomele halapepe* (hala pepe), and *Psydrax odoratum* (alahe'e) (HHP 1991e5 to 1991e8; HPCC 1991; J. Lau, pers. comm., 1991). Habitat degradation by feral pigs and competition with alien plant species (Christmas berry, Koster's curse, strawberry guava, *Lantana camara* (lantana)) are the major threats to *Eugenia koolauensis*. The limited numbers of this species make it vulnerable to stochastic extinction and/or reduced reproductive vigor due to the small number of individuals and limited gene pool.

The first specimen of *Hesperomannia* was collected by Horace Mann, Jr. on the summit of the island of Lanai in 1864 (Brigham 1868, Degener 1932c). Asa Gray (1865) named the genus after its discovery and also gave it the specific name *arborescens* for its tree-like habit (Brigham 1868). Other names which refer to this species are *H. bushiana* (Degener 1935), *H. Swezeyi* (Degener 1933), and *H. bushiana* var. *fosbergii* (Degener 1937). According to Warren L. Wagner and others (1990), the last treatment of *Hesperomannia* (Carlquist 1957), which designates three subspecies (subspecies *arborescens*, *bushiana*, and *swezeyi*) based on leaf shape, achene (dry, one-seeded fruit) size, and number of heads, does not seem to delimit geographical or ecological entities and therefore does not warrant formal recognition.

Hesperomannia arborescens is a small shrubby tree of the aster family (Asteraceae) that usually stands 5 to 16 ft (1.5 to 5 m) tall. Its typically hairless leaves, 4 to 8 in (10 to 20 cm) long and 1 to 3 in (3 to 8 cm) wide, range from oval to lance-shaped and are about two to four times as long as they are wide. The flower heads, which are about 2.4 in (6 cm) long, are either erect or ascending, and grow singly or in clusters of 2 to 10. They grow on thick fuzzy stalks 0.2 to 0.6 in (4 to 15 mm) long and about 0.1 in (3 mm) in diameter. The involucre (set of bracts) that surrounds each flower head is between 0.8 and 1.4 in (2 and 3.5 cm) high, the longest individual bracts growing to 1.1 in (2.8 cm). The yellow to yellowish brown florets that comprise each head are about 0.9 to 1.2 in (2.4 to 3 cm) long and develop into 0.5 in (1.3 cm) long achenes (dry, one-seeded, fruits) topped with yellowish brown or purple-tinged bristles. This member of an endemic Hawaiian genus differs from other *Hesperomannia* species in having the following combination of characters: erect to ascending flower heads, thick flower head stalks, and usually hairless and relatively narrow leaves (Brigham 1868; Carlquist 1957; Degener 1932c, 1933, 1935; Gray 1865; Hillebrand 1888; Marticorena and Parra 1975; Rock 1913; Wagner *et al.* 1990).

Hesperomannia arborescens was formally known from locations on three islands: Kaiholena and Kukui on Lanai, Pelekunu Trail on Molokai, and scattered populations throughout the Koolau Mountains, from Koolauloa and Pupukea at its northern extreme to Knoahuanui at the southern end (Forbes 1920; HHP 1991f1 to 1991f10, 1991f12 to 1991f16, 1991f22). This species is now known from 15 populations totalling fewer than 50 plants on the islands of Oahu, Molokai, and Maui. On Oahu, 13 populations, which total about 30 to 40 individuals, have been observed since 1958 on private, Honolulu City and County, and State land at a few disjunct locations over a distance of about 27 mi (43 km): upslope of Kahuku, Laie, and Malaekahana; along Poamoho Trail above Poamoho Stream; at Kipapa Gulch; on Halawa Ridge; and in upper Palolo Valley to Niu Valley (HHP 1991f1, 1991f3, 1991f5, 1991f7, 1991f8, 1991f10, 1991f17 to 1991f21; HPCC 1990b1; Marticorena and Parra 1975; Derral Herbst, U.S. Fish and Wildlife Service, and S. Perlman, pers. comms., 1991). On Molokai, one population of three individuals was found on State land in Olokui Natural Area Reserve (NAR) (HHP 1991f11; S. Perlman, pers. comm.,

1991). A recent discovery in 1989 by Joel Lau of TNCH extends this species' range to the island of Maui, where two colonies totalling three individuals were discovered about 0.3 mi (0.5 km) apart on State land in West Maui NAR between Lanilili and Keahikauo (HHP 1991f23; HPCC 1990b2; J. Lau and S. Perlman, pers. comms., 1991).

Hesperomannia arborescens, often found on slopes or ridges in association with 'ohi'a, olopua, uluhe, *Antidesma platyphyllum* (hame), and common *Melicope* species, typically grows in lowland wet forests and occasionally in scrub vegetation between 1,200 and 2,500 ft (360 and 750 m) in elevation (HHP 1991; HHP 1991f1 to 1991f3, 1991f5 to 1991f10, 1191f13 to 1991f18, 1991f20, 1991f22, f1991f23; Wagner *et al.* 1990; J. Lau, pers. comm., 1991). The Molokai population grows in lama and/or 'ohi'a-dominated lowland mesic forest habitat within the same elevational range (HHP 1991f11). The major threats to *Hesperomannia arborescens* are: habitat degradation by feral pigs and goats, competition with alien plant species (Hilo grass, strawberry guava, (*Tibouchina herbacea)*, fire, and impact by humans. Stochastic extinction and/or reduced reproductive vigor due to this species' limited numbers are significant threats as well.

Lobelia oahuensis, named by Rock (1918, 1919) for the island on which the type specimen was collected, was transferred to the genus *Neowimmeria* by the Degeners in 1974; the genus is not accepted by current authorities (Lammers 1990).

Lobelia oahuensis, a member of the bellflower family, is a stout, erect, unbranched shrub 3 to 10 ft (1 to 3 m) tall. The elliptic leaves, which are 16 to 24 in (40 to 60 cm) long and 1.6 to 2.4 in (4 to 6 cm) wide, are typically stalkless and form a very dense rosette at the end of the stem. The upper surface of the leaves is hairless and the lower surface is covered with rather coarse grayish or greenish hairs. The inflorescence is branched 3 to 5 times from its base, with each erect spike 3 to 5 ft (0.1 to 1.5 m) tall and comprising 50 to 200 flowers. Fifty to 200 flowers grow in 3 to 5 ft (1 to 1.5 m) long clusters that are branched at their base. Each flower measures 1.7 to 1.8 in (42 to 45 mm) long and about 0.2 in (5 mm) wide, with a 1.2 in (3 cm) long bract just below it. The linear calyx lobes are about 0.6 in (16 mm) long and 0.1 in (3 mm) wide. The fruits are hairy, oval capsules 0.4 to 0.7 in (10 to 17 mm) long and about 0.4 in (9 mm) wide that contain numerous brownish seeds. *Lobelia oahuensis* differs from other members of the genus in having the following combination of characters: erect stems 3 to 10 ft (1 to 3 m) long, dense rosettes of leaves at the end of stems, lower leaf surfaces covered with coarse grayish or greenish hairs, and flowers 1.7 to 1.8 in (42 to 45 mm) long (Lammers 1990; Rock 1918, 1919; St. John and Hosaka 1935).

Historically, *Lobelia oahuensis* was known from Kahana Ridge, Kipapa Gulch, and the southeastern Koolau Mountains of Oahu (HHP 1991g1, 1991g4 to 1991g7; St. John and Hosaka 1935). Eight populations totalling between 100 and 200 individuals are located on private and State, land or on the boundary of private, State, and City and County land. *Lobelia oahuensis* grows on steep slopes along Koolau Mountain ridgetops from Waikane and Halawa to Mount Olympus and the summit ridges above Kuliouou and Waimanalo, a distance of about 17 mi (27 km) (HHP 1991g1 to 1991g3, 1991g6, 1991g8 to 1991g10; J. Obata and S. Perlman, pers. comms., 1991). These populations are located between elevations of 2,800 and 3,000 ft (850 and 920 m) on summit cliffs in cloudswept wet forests or in areas of low shrub cover that are frequently exposed to heavy wind and rain (HHP 1991g1 to 1991g3, 1991g6 to 1991g10; Lammers 1990). Associated plant species include 'uki, *Cheirodendron trigynum* (olapa), *Dubautia laxa* (na'ena'e pua melemele), and *Labordia hosakana* (kamakahala) (HHP 1991g1, 1991g2, 1991g7, 1991g8, 1991g10; J. Obata, pers. comm., 1991). The noxious alien plant species, Koster's curse, is the primary threat to *Lobelia oahuensis* because it effectively competes with this species for water, space, light, and nutrients.

Lycopodium nutans was described by William D. Brackenridge in 1854 from a specimen collected from the "high mountains" of Oahu by Charles Wilkes, commander of the U.S. Exploring Expedition of 1840 on which Brackenridge was the horticulturist (Ollgaard 1989). The specific epithet is probably in reference to the species' "nodding" or pendant spikes. Other names by which this species has been known include *Huperzia nutans*, *Lycopodium phyllanthum* var. *nutans*, and *Urostachys nuans*, which are not accepted by current authorities (Baker 1887, Ollgaard).

Lycopodium nutans is an erect or pendulous herbaceous epiphyte (plant not rooted in the ground) of the clubmoss family (Lycopodiaceae). Its stiff, light green branches, 10 to 16 in (25 to 40 CM) long and about 0.2 in (6 mm) thick, are covered with stiff, flat, leathery leaves, 0.5 to 0.6 in (12 to 16 mm) long and about 0.1 in (2.5mm) wide that overlap in acute angles. The leaves are arranged in six rows and arise directly from the branches. The branches end in thick, 2.8 to 5.1 in (7 to 13 cm) long fruiting spikes that are unbranched or branch once or twice, and taper toward a downward-curving tip. Bracts on the fruiting spikes, between 0.6 and 0.2 in (3 to 6 mm) long, are densely layered and conceal the spore capsules. This species can be distinguished from others of the genus in Hawaii by its epiphytic habit, simple or forking fruiting spikes, and larger and stiffer leaves (Degener 1934, Hillebrand 1888, Wagner and Wagner 1987).

Historically, *Lycopodium nutans* was known from the island of Kauai and from scattered locations in the Koolau Mountains of Oahu bounded by Kaluanui Valley to the north, Paalaa to the west, and Mount Tantalus to the south (HHP 1991h1 to 1991hp). This species is now known from only two sites within its historical range: Kaluanui Valley and along Waikane-Schofield Trail on Oahu. One population, located on State land, was described as "scarce" when last observed in 1965 (HHP 1991h3). The other population, located about 5 mi (8 km) away on the boundary of State (Ewa Forest Reserve) and Federal land (Schofield Barracks Military Reservation), grew in "several places" according to its collector in 1961 (HHP 1991h4), giving a total of probably fewer than 50 individuals for the entire species. *Lycopodium nutans* grows on tree trunks, usually on open ridges and slopes in 'ohi'a-dominated wet forests and occasionally mesic forests (HHP 1991h5 to 1991h7, Hosaka 1937) between 2,000 and 3,500 ft (600 and 1,070 m) in elevation (Robinson 1914, Selling 1946). The vegetation in those areas typically includes kanawao, kopiko, uluhe, and 'uki (S. Perlman, pers. comm., 1991). The primary threat to *Lycopodium nutans* is stochastic extinction and/or reduced reproductive vigor because of the small number of remaining individuals and limited distribution.

Hillebrand (1888) described *Pelea lydgatei*, the basionym of *Melrcope lydgatei*, based on a collection by John M. Lydgate from Palolo Valley, Oahu. In an action not accepted by other taxonomists, Emmanuel Drake del Castillo (1890) transferred the species to the genus *Evodia*. In 1944, St. John described two new species, *P. descendens* and *P. semiternata*, which he later determined were synonmous (St. John 1979). Current authorities, however, do not accept St. John's species as being sufficiently different

from *Melicope lydgatei* to maintain them as distinct taxa. 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 present combination.

Melicope lydgatei is a small shrub of the citrus family (Rutaceae) that has leaves arranged oppositely or in threes. The glossy, papery leaves, which are 1.6 to 5.1 in (4 to 13 cm) long and 0.8 to 2.6 in (1.5 to 6.5 cm) wide, vary from lance-shaped to oblong. Flowers are usually functionally unisexual, with both unisexual and bisexual flowers growing on the same plant. Its aromatic, greenish white flowers are about 0.2 to 0.3 in (4 to 7 mm) long and arise singly or in clusters of two or three. The four-lobed capsuls, which have sections fused for one-fourth to one-third their length, are between 0.6 and 0.9 in (14 and 22 mm) wide, and contain one or two glossy black seeds, about 0.2 in (5 mm) long, in each section. Both the exocarp and endocarp (outermost and innermost layers of the fruit wall, respectively) are hairless. The species' leaf arrangement (opposite or in groups of three), the amount of fusion of the fruit sections, and the hairless exocarp and endocarp distinguish it from others in the genus (Hillebrand 1888; St. John 1944, 1979; Stone 1969; Wagner *et al.* 1990).

Melicope lydgatei was formerly known throughout the Koolau Mountains of Oahu from Hauula to Kahana, Kipapa Gulch to Waimano, and Kalihi Valley to Wailupe Valley (HHP 1991i1 to 1991i8, 1991i10 to 1991i12). Only two populations totalling fewer than 10 individuals, distributed over a 7.5 mi (12 km) distance, remain within its historical range: Along Poamoho Trail near the boundary of State (Ewa Forest Reserve) and private land, and along Manana Trail, growing on State land in Ewa Forest Reserve (HHP 1991i9, 1991i13). This species typically grows in association with kopiko, 'ohi'a, and *Bobea elatior* ('ahakea lau nui) on open ridges in mesic forests and occasionally in wet forests at elevations between 1,350 and 1,800 ft (410 and 550 m) (HHP 1991i2, 1991i4 to 199i6, 1991i8 to 1991i10, 1991i12, 1991i13; Stone *et al.* 1990). The primary threat to *Melicope lydgatei* is stochastic extinction and/or reduced reproductive vigor because the few individuals that remain are restricted in distribution. A single human-caused or natural event could destroy a significant percentage of the entire species.

In 1826, Charles Gaudichaud-Beaupre described *Rollandia crispa* from a fragmentary specimen of a leaf he collected, and probably assigned it the specific epithet based on the crisp or crimped leaf margin (CPC 1989, Rock 1919). Names that have been applied to this species include the following: *Lobelia crispa* (Endlicher 1836), *Rollandia crispa* var. *muricata* (Rock 1919), *R. grandifolia* (Hillebrand 1888), and the illegitimate name, *Cyanea rollandia* (Gray 1861).

Rollandia crispa, a member of the bellflower family, is an unbranched shrub with leaves clustered at the ends of succulent stems. The broad oval leaves, 12 to 30 in (30 to 75 cm) long and 3.5 to 6.3 in (9 to 16 cm) wide, have undulating, smooth or toothed leaf margins. Each leaf is on a stalk 0.3 to 1.6 in (0.8 to 4 cm) long. Clusters of three to eight fuzzy flowers grow on stalks 0.8 to 1.2 in (2 to 3 cm) long, with each flower borne on a stalk 0.4 to 0.8 in (1 to 2 cm) long. The calyx lobes are oval or oblong, 0.2 to 0.5 in (6 to 12 mm) long, and often overlapping at the base. The fused petals, 1.6 to 2.4 in (4 to 6 cm) long and fuzzy, are pale magenta with darker longitudinal stripes. The fruits are spherical berries 0.4 in (1 cm) in diameter, that contain many minute, dark seeds. *Rollandia crispa* is distinguished from other species in this endemic Hawaiian genus by its leaf shape, distinct calyx lobes, and the length of the flowers and stalks of flower clusters (de Candolle 1839, Hillebrand 1888, Lammers 1990, Rock 1919, Wawra 1873).

Historically, *Rollandia crispa* was known from scattered locations throughout the upper elevations of the Koolau Mountains of Oahu; from Kaipapau Valley to the north to Waialae Iki Ridge to the southeast (HHP 1991j1 to 1991j15, 1991j17 to 1991j19; Skottsberg 1926). This species is now known from Waiahole Ditch Trail, Moanalua Valley, Kapakahi Gulch, the west fork of Niu Valley, and Pia Valley, where a single individual discovered in 1990 by NTBG staff extended this species' range further east (HHP 1991j8, 1991j16, 1991j17; HPCC 1990c; Lammers 1990; D. Herbst, J. Obata, and S. Perlman, pers. comms., 1991; K. Nagata, B.P. Bishop Museum, pers. comm., 1991). The five populations are scattered over a distance of about 14 mi (23 km). Three of the populations contain a single individual each. The other two populations are thought to contain only a few plants each, giving a total of fewer than 10 individuals for the entire species. *Rollandia crispa* is found in habitats ranging from steep, open mesic forests to gentle slops or moist gullies of closed wet forests, at elevations between 600 and 2,400 ft (185 and 730 m) (HHP 1991j2, 1991j5, 1991j8, 1991j9, 1991j12, 1991j13, 1991j16; HPCC 1990c). Associated plant species include 'awa, kukui, common *Cyrtandra* species, *Pisonia*, and *Touchardia latifolia* (olona), and the introduced species, strawberry guava and *Cordyline fruticosa* (ti) (HHP 1991j8, 1991j16; J. Obata, pers. comm., 1991). The major threats to *Rollandia crispa* are competition with noxious alien plant species (Koster's curse and strawberry guava) and stochastic extinction and/or reduced reproductive vigor due to the small number of remaining individuals, their limited gene pool, and restricted distribution.

Based on a specimen collected by Lydgate in Niu Valley on Oahu, Hillebrand described *Pterotropia gymnocarpa*, the specific epithet referring to its entirely free and naked (lacking a covering) fruit (Hillebrand 1888). Sherff (1952) renamed the species *Tetraplasandra gymnocarpa* and split the species into three varieties (varieties *pupukeensis*, *leptocarpa*, and *megalocarpa*) (Sherff 1952, 1953) that are considered synonymous in the latest treatment of the genus (Lowrey 1990). Other names by which this species has been known include *Pterotropia gymnocarpa* var. *pupukeensis* (Degener 1938). *Heptapleurum gymnocarpum* (Drake del Castille 1890), and *Dipanax gymnocarpa* (Heller 1897).

Tetraplasandra gymnocarpa, a member of the ginseng family (Araliaceae), is a tree 8 to 33 ft (2.5 to 10 m) tall, either hairless or with fuzzy, short-lived hairs on the young leaves and flower clusters. The leaves are 12 to 22 in (30 to 55 cm) long with 7 to 21 leathery, oval to elliptic leaflets per leaf. Each leaflet is 2.8 to 7.1 in (7 to 18 cm) long and 1.2 to 3.1 in (3 to 8 cm) wide, and is folded upward along the midvein. The flowers are usually arranged in threes or in an umbrella-shaped arrangement. Petals are 0.2 to 0.3 in (4 to 8 mm) long and usually number 5 or 6 per flower, with an equal number of stamens. The ovary, which usually has 3 or 4 sections, appears placed atop the receptacle (base of the flower) in a superior position, due to the expansion of the ovary disk (outgrowth of the receptacle) and the reduction of the hypanthium (basal portion of the flower). Fruits are purplish, oval or top-shaded drupes, 0.2 to 0.5 in (6 to 12 mm) long, that enclose a papery endocarp and single seeds. *Tetraplasandra gymnocarpa* is distinguished from all other species in the genus in that its ovary appears fully superior (Degener 1938; Degenera and Degener 1962a, 1962b; Hillebrand 1888; Lowrey 1990; Sherff 1952, 1955).

Tetraplasandra gymnocarpa was historically known from Punaluu, Waikakalaua Gulch, Mount Olympus, and the region between Niu and Wailupe in the Koolau Mountains of Oahu (Degener 1938; HHP 1991k3, 1991k12 to 1991k14. Thirteen populations are now scattered along the summit ridges of the Koolau Mountains over a distance of 18 mi (45 km), from the region of Paumalu at the northern extreme to Kuliouou and Waimanalo at the southeastern most point (HHP 1991k1, 1991k2, 1991k4 to 1991k11, 1991k15 to 1991k18; S. Perman, pers. comm., 1991). One population in the Waianae Mountains, located on Palikea ridge on the border between Federal and private land, was last visited in 1954; it is not known whether it still exits (HHP 1991k8). Most populations contain between one and six individuals, giving a total of fewer than 40 individuals for the entire species. However, because *T. gymnocarpa* is difficult to distinguish from related species when without flavers or fruit, the total number of individuals may be as high as "a few hundred" (J. Obata, pers. comm., 1991). *Tetraplasandra gymnocarpa* is typically found on windswept summit ridges or in gullies in wet or sometimes mesic forests between elevations of 820 and 2,790 ft (250 and 850 m) with such associated plant species as 'ohi'a, olapa, uluhe, *Labordia tinifolia* (kamakahala), and *Myrsine fosbergii* (kolea) (HHP 1991k1, 1991k2, 1991k4 to 1991k7, 1991k9, 1991k11, 1991k14, 1991k15, 1991k17, 1991k18; Lowrey 1990). The major threats to *Tetraplasandra gymnocarpa* are competition with the alien plant species, Koster's curse, and reduced reproductive vigor due to the limited gene pool because of the small number of extant individuals.

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, *Cyrtandra crenata, Cyrtandra polyantha, Hesperomannia arborescens* (as *H. arborescens* ssp. *bushiana* and ssp. *swezeyi*), *Lobelia oahuensis, Melicope lydgatei* (as *Pelea lydgatei* and *P. descendens*), and *Tetraplasandra gymnocarpa* (as *T. gymnocarpa* var *pupukeensis*) were considered to be endangered. *Lycopodium nutans* was considered to be threatened, and *chamaesyce deppeana* (as *Euphorbia deppeana*) and *Eugenia koolauensis* (as *Eugenia molokaiana*) was considered to be extinct. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) 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 species named therein. As a result of the 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 threatened or thought to be extinct. The list of 1,700 plant species 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, 1976, 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, eight of the species (including synonymous taxa) that had been in the 1976 proposed rule were treated as Category 1 candidates for Federal listing. Category 1 species are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals. Other than *Chamaesyce deppeana* (as *Euphorbia deppeana*), *Lycopodium nutans, Melicope lydgatei* (as *Pelea lydgatei* and *P. descendens*) and *Tetraplasandra gymnocarpa* (as *T. gymnocarpa* var. *pupukeensis*), all the aforementioned species that were either proposed as endangered or threatened or thought to be extinct in the June 16, 1976, proposed rule were considered Category 1 candidates in all three notices of review. *Melicope lydgatei* (as *Pelea lydgatei and P. descendens*), a Category 1 species in the 1980 and 1985 notices, was conferred Category 1* status in the 1990 notice. Category 1* species are those which are possibly extinct; however, because new information regarding this species' existence has become available, it is herein proposed for listing. In the 1980 and 1985 notices, *Lycopodium nutans* was considered a Category 2 species and *Chamaesyce deppeana* (as *Euphorbia deppeana*) a Category 3A species. Category 2 species are those for which there is evidence of vulnerability, but for which there are not enough data to support listing proposals at the time. Category 3A species are those for which the Service has persuasive evidence of extinction. For those two species, because new information provided support for listing or indicated their current existence, they were conferred Category 1 status in the 1990 notice. *Tetraplasandra gymnocarpa* var. *pupukeensis* appeared as a Category 3B species in the 1980 and 1985 notices; in the 1990 notice, it was considered synonymous with *T. gymnocarpa*, a Category 1 species. Category 3B species are those which, on the basis of current taxonomic understanding, do not represent distinct taxa meeting the Act's definition of "species." *Cyanea truncata* and *Rollandia crispa* first appeared in the 1990 notice, as Category 1 species.

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 species 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, 1990, and 1991. Publication of the present proposal constitutes the final 1-year finding for these species.

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 11 species are summarized in Table 1.

TABLE 1.—SUMMARY OF THREATS

Species	Feral animal activity		Alien plants	Fire	Human impacts	Rodents	Limited numbers*
	Pigs	Goats					
Chamaesyce deppeana			X	X	X		X[2,3]
Cyanea truncata	X		X			P	X[2,3]
Cyrtandra crenata					P	P	
Cyrtandra polyantha					P	P	X[1,2,3]
Eugenia koolauensis	X		X		P		X[2,3]
Hesperomannia arborescens	X	X	X	X	X		X[3]
Lobelia oahuensis	P		X			P	
Lycopodium nutans					P		X[2,3]
Melicope lydgatei					P		X[1,2,3]
Rollandia crispa	P		X		P	P	X[1,2,3]
Tetraplasandra gymnocarpa	P		X		P		X[3]

X = Immediate and significant threat.
P = Potential threat.
* No more than 100 individuals and/or 5 or fewer populations.
[1] No more than 10 individuals.
[2] No more than 100 individuals.
[3] Five or fewer populations.

These factors and their application to *Chamaesyce deppeana* (Boiss.) Millsp. ('akoko), *Cyanea truncata* (Rock) Rock (haha), *Cyrtandra crenata* St. John and Storey (ha'iwale), *Cyrtandra polyantha* C.B. Clarke (ha'iwale), *Eugenia koolauensis* Degener (nioi), *Hesperomannia arborescens* A. Gray (no common name (NCN)), *Lobelia oahuensis* Rock (NCN), *Lycopodium nutans* Brack. (wawae'iole), *Melicope lydgatei* (Hillebr.) Hartley and Stone (alani), *Rollandia crispa* Gaud. (NCN), and *Tetraplasandra gymnocarpa* (Hillebr.) Sherff ('ohe'ohe) are as follows:

A. *The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range.*

The native vegetation of the Koolau Mountains and adjacent areas has undergone extreme alterations because of past and present land management practices, including deliberate alien plant and animal introductions, agricultural development, military use, and recreational use (Cuddihy and Stone 1990, Wagner *et al.* 1985). Degradation of habitat by feral pigs and competition with alien plants are considered the greatest present threats to the 11 species being proposed.

Feral pigs (*Sus scrofa*) have been in the Koolau Mountains for about 150 years and are known to be one of the major modifiers of wet forest habitats (Stone 1985). Pigs damage the native vegetation by rooting and trampling the forest floor, which encourages the spread of alien plant species that are better able to exploit the newly tilled soils than are native species (Cuddihy and Stone 1990, Stone 1985). Feral pigs also feed on the starchy interior of tree ferns (*Cibotium*) and other succulent-stemmed plants (See Factor C). One population of three individuals of *Cyanea truncata* in Hidden Valley was destroyed in recent years by feral pigs (CPC 1989a, 1989b, 1990; HHP 1991b1). The species was thought to be extinct until a discovery of 20 individuals was made in the same valley in 1991 (J. Obata, pers. comm., 1991). At the time of discovery, habitat degradation and predation of *Cyanea truncata* by pigs was observed (S. Perlman, pers. comm., 1991). All known individuals were immature, which suggests that the parent plant(s) may have been destroyed. The continued impact of pigs poses an immediate and severe threat to the plants that remain. Feral pigs are known to frequent regions of Pupukea and Paumalu and threaten to destroy the habitat of at least one population each of *Eugenia koolauensis* and *Hesperomannia arborescens* that grow there (HHP 1991f10; K. Nagata, pers. comm., 1991). Pigs are becoming an increasing threat to one population of *Hesperomannia arborescens* at Halawa Valley and populations of *Lobelia oahuensis* and *Rollandia crispa* further south near Niu Valley (HHP 1991g5, 1991j16; HPCC 1990b1, 1990c; K. Nagata and S. Perlman, pers. comms., 1991). The only population of *Hesperomannia arborescens* on Maui is threatened by pigs as well (HHP 1991f23, HPCC 1990b2). Because pigs occur throughout the Koolau Mountains, they pose a potential threat to the other proposed species that grow there, especially those in areas from which pigs have been reported: *Lobelia oahuensis* at Konahuanui, *Rollandia crispa* in Pia Valley, and *Tetraplasandra gymnocarpa* in the regions of Pupukea and Paumalu (K. Nagata and S. Perlman, pers. comm., 1991).

Goats (*Capra hircus*) have become established on the island of Molokai as well as other major Hawaiian islands (Kauai, Oahu, Maui, and Hawaii) (Cuddihy and Stone 1990, van Riper and van Riper 1982). Goats are managed in Hawaii as a game animal, but are able to forage in extremely rugged terrain and populate inaccessible areas where hunting has little effect on their numbers (Culliney 1988, HHP 1990). Feral goats eat native vegetation, trample roots and seedlings, cause erosion, and promote the invasion of alien plants. On Molokai, goats degrade dry forests at low elevations and they are expanding their range (Cuddihy and Stone 1990; J. Lau, pers. comm., 1991). Goats browse on introduced and native plants, especially in dry, open ecosystems similar to that found between Wailau and Waiehu on the island of Molokai. In 1989, it was observed that numerous goats occupied the Wailau-Waiehu area and threatened the survival of the only population of *Hesperomannia arborescens* on the island (HHP 1991f11). Although there is no longer a large feral goat population on Oahu, the effects of the goat trade in the early 1820s, which allowed goats to proliferate without being confined by fences, and resultant damage by goats to the native flora have permanently altered Oahu's native ecosystems (Cuddihy and Stone 1990, Culliney 1988, Tomich 1986). Today, little of the original forest of the Koolau Mountains remain (Wagner *et al.* 1985).

Like goats, cattle (*Bos taurus*) were once abundant on Oahu. Because of past restrictions on hunting, widespread ranching, and ineffective confinement of the animals, the goat and cattle population boomed and they spread to many parts of the island (Culliney 1988). The impact of cattle on the native vegetation was similar to that described for goats (Cuddihy and Stone 1990, Scott *et al.* 1986, Tomich 1986). It wasn't until

local land managers recognized the extent of destruction of native vegetation by these animals that their numbers were controlled. However by then, much of the plant cover on cattle-grazing land on Oahu and other islands were already degraded. Such areas remained grassland for many years following the removal of cattle (Culliney 1988). Although not a current threat to the proposed species, cattle that one roamed through the Koolau Mountains contributed to the reduction in the range of many native plants, probably including at least some of the proposed species.

Seven of the 11 species being proposed for listing re threatened by competition with one or more alien plant species (See Table 1). Naturalized species compete with native plants for space, light, water, and nutrients (Cuddihy and Stone 1990). *Clidemia hirta* (Koster's curse), a noxious shrub first cultivated in Wahiawa on Oahu, spread to the Koolau Mountains prior to 1941, where it is now rapidly displacing native vegetation (Wagner *et al.* 1985). Koster's curse spread to the Waianae Mountains around 1970 and is now widespread throughout the southern half of that mountain range (Cuddihy and Stone 1990, Smith 1985, Wagner *et al.* 1985). This pest forms a dense understory, shading out other plants and hindering plant regeneration, and is considered the major alien plant threat in the Koolau Mountains (HHP 1987; Smith 1989; S. Perlman, pers. comm., 1991). At present, Koster's curse threatens to replace the sole population of *Cyanea truncata* and one population each of *Eugenia Koolauensis*, *Hesperomannia arborescens*, and *Lobelia oahuensis* in the Koolau Mountains (HPCC 1990b1; J. Lau, K. Nagata, and J. Obata, pers. comms., 1991). Koster's curse is such a pervasive pest that it constitutes a serious threat to all populations of *Rollandia crispa* in the Koolau Mountains and all populations of *Tetraplasandra gymnocarpa* in both the Koolau and Waianae ranges (J. Obata and S. Perlman, pers. comms., 1991).

Tibouchina herbacea, a relative of Koster's curse, first became established on the island of Hawaii in the late 1970s and, by 1982, was collected in Lanilili on West Maui (Almeda 1990). Although the disruptive potential of this alien plant is not fully known, *Tibouchina herbacea* appears to be rapidly invading mesic and wet forests of Maui, and is considered the primary alien plant threat to the only population *Hesperomannia arborescens* on that island (Cuddihy and Stone 1990; HPCC 1990b2; J. Lau, pers. comm., 1991).

Psidium cattleianum (strawberry guava) has become widely naturalized on all the main islands of Hawaii. Found in mesic and wet forests in the Koolau Mountains, strawberry guava develops into dense stands in which few other plants can grow, displacing native vegetation. Strawberry guava is eaten by pigs that disperse the plant's seeds through the forest (Smith 1985, Wagner *et al.* 1985). At present, all populations of *Eugenia koolauensis* are affected by strawberry guava; two populations located in the Paumalu and Pupukea regions, one of which comprises over 70 percent of the individuals of this species, are most acutely affected (HHP 1991e8; HPCC 1991; K. Nagata, pers. comm., 1991). The only known population of *Cyanea truncata* and one population each of *Hesperomannia arborescens* and *Rollandia crispa* are also seriously threatened by this pervasive weed (HHP 1991f1, 1991j16; S. Perlman, pers. comm., 1991).

After escaping from cultivation, *Schinus terebinthifolius* (Christmas berry) became naturalized on most of the main Hawaiian Islands (Wagner *et al.* 1990) and is a pervasive threat in the Koolau Mountain Range. This fast-growing tree, distributed mainly by feral pigs and fruit-eating birds, is able to form dense thickets that displace other plants (Cuddihy and Stone 1990, Smith 1985, Stone 1985). It is now replacing the native vegetation of the Koolau Mountains and threatens to occupy the habitat of the sole population of *Chamaesyce deppeana* at Nuuanu Pali and *Eugenia koolauensis* at Papali Gulch (HHP 1991e5, HPCC 1990a).

Lantana camara (lantana) is an aggressive thicket-forming shrub, brought to Hawaii as an ornamental, that has now become naturalized in mesic in forests, dry shrublands, and other disturbed habitats (Smith 1989, Wagner *et al.* 1990). Lantana poses an immediate threat to a population of *Eugenia koolauensis* in the Koolau Mountains (HHP 1991e7).

Paspalum conjugatum (Hilo grass) is one of several perennial grasses purposely introduced for cattle fodder that have become noxious weeds on Oahu as well as other Hawaiian Islands (Cuddihy and Stone 1990, Scott *et al.* 1986, Tomich 1986). Hilo grass rapidly forms a dense ground cover is wet habitats from sea level to 6,600 ft (2,000 m) in elevation and competes with ferns and other native plants (Cuddihy and Stone 1990, Haselwood and Motter 1983, O'Connor 1990, Smith 1985). Its small hairy seeds are easily transported on humans and animals or carried by the wind through native forests. Hilo grass is becoming a major component of the vegetation on Nuuanu Pali and threatens the sole population of *Chamaesyce deppeana* that grows there (S. Perlman, pers. comm., 1991). The only population of *Hesperomannia arborescens* on Mokokai is threatened by Hilo grass as well (S. Perlman, pers. comm., 1991).

Casuarina equisetifolia (common ironwood) is a large, fast-growing tree that reaches up to 65 ft (20 m) in height (Wagner *et al.* 1990). This large tree shades out other plants, takes up much of the available nutrients, and possibly releases a chemical agent that prevents other plants from growing beneath it (Neal 1965, Smith 1985). Like Hilo grass, common ironwood is becoming a significant component of the wet forest vegetation in Nuuanu Valley, especially at Nuuana Pali where the only know population of *Chamaesyce deppeana* remains, and poses a significant threat to that population (HHP 1991a; HPCC 1990a; S. Perlman, pers. comm., 1991).

Fire is a definite and immediate threat to 2 of the 11 proposed species (See Table 1) and poses a possible threat to 8 other species. Because Hawaii's native plants have evolved with only infrequent, naturally occurring episodes of fire (lava flows, infrequent lightning strikes), most are not adapted to fire and are unable to recover well after recurring human-set fires. Alien plants are often more fire-adapted than native species and quickly exploit suitable habitat after a fire (Cuddihy and Stone 1990). Proposed species that grow in dry and mesic vegetation communities (including all of the proposed taxa except the wet forest and shrubland species, *Lobelia oahuensis*)may be susceptible to accidentally or maliciously set firs, especially near areas of habitation from which fires could easily spread. In the past 14 or 15 years, there have been approximately 8 to 10 fires in conservation districts under the jurisdiction of the Hawaii Division of Forestry and Wildlife in the low elevation slopes of the Koolau Mountains. Some of these included small spot fires in Waiawa, Pupukea, St. Louis Heights, and Kalhi Valley regions (Earl Pawn, State Division of Forestry and Wildlife (DOFAW), pers. comm., 1991). Although the fires were contained within small areas, the possibility remains for such fires to spread upslope into habitat occupied by the proposed species, especially in dry summer months. Fires were also reported from day and mesic regions in the Koolau Mountains, specifically at Poamoho Trail, where on population of

Hesperomannia arborescens is located, and at Nuuanu Pali, where the only know population of *Chamaesyce deppeana* remains (HHP 1991a, 1991f1). Although the extent of the fire on Nuuanu Pali is not know, it is possible for a fire in the vicinity of that population to spread, fueled by the combination of alien, naturalized grasses and brisk updrafts, typical of the area.

Although the northern Koolau Mountains are mostly State and or privately owned, large parcels are leased to the U.S. Army (Wagner *et al.* 1985). Military training exercises and ground maneuvers are occasionally conducted in those areas, especially along the summit ridges and in various locations above Kahuku. Because of the steep terrain, training areas are restricted to foot travel; tanks and other off-road vehicles are not utilized. Vehicles are only used on roads or trails (Alton Kanno, Environmental Management Office, U.S. Army Support Command, Hawaii, pers. comm., 1991), but the potential for affecting one population of *Hesperomannia arborescens* that growns along a jeep trail exists (HHP 1991f10). Trampling by ground troops associated with training activities could also affect other proposed species, including two populations of *Eugenia koolauensis*, five of *Hesperomannia arborescens*, one of the two known populations of *Lycopodium nutans*, one of the two populations of *Melicope lydgatei*, and three populations of *Tetraplasandra gymocarpa* that occur on land leased or owned by the Army (HHP 1991e3, 1991e8, 1991f1, 1991f10, 1991f17, 1991f20, 1991f21, 1991h4, 1991i9, 1991k4, 1991k6, 1991k9).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Unrestricted collecting for scientific or horticultural purposes and excessive visits by individuals interesting in seeing rare plants could result from increased publicity. These are potential threats to all of the proposed species, but especially to *Cyrtanda crenata, Cyrtandra polyantha, Melicope lydgatei, and Rollandia crispa*, each of which has a total of 10 or fewer individuals. Any collection of whole plants or reproductive parts of any of these four species could cause an adverse impact on the gene pool and threaten the survival of the species. The proximity of approximately 30 percent of the known individuals of *Chamaesyce deppeana* to a major scenic lookout, some within 15 ft (5 m) from heavy pedestrian traffic, poses a threat to a significant proportion of the entire species (J. Lau and J. Obata, pers. comms., 1991); its accessibility may make the plants attractive to collectors. One population of *Hesperomannia arborescens* is located close to a trail and is thus easily accessible to visitors (HHP 1991f1).

C. Disease and Predation

Disease is not known to be a significant threat to any of the proposed species. However, a tiny beetle, *Xylosandrus compactus* (black twig borer), is know to infest common species of *Melicope in the Koolau Mountains (Davis 1970). Black twig borers burrow into branches and introduce a pathogenic fungus that kills twig, reduces plant vigor, and often destroys entire plants. Populations of Melicope lydgatei* that grown in the Koolau Mountains may be affected by the insects as well (Davis 1970, Hara and Beardsley 1979).

Of the ungulates introduced to Oahu, pigs have become the primary modifiers of wet forests in the Koolau Mountains. Not only do they destroy native vegetation through their rooting activities and dispersal of alien plant seed (See Factor A), but pigs also feed on plants, preferring the pithy interior of large tree ferns and fleshy-stemmed plants from the bellflower family (Stone 1985; Stone and Loope 1987; S. Perlman, pers. comm., 1991). Predation of *Cyanea truncata* by pigs has been observed and is believed to be the cause of the decline of the only known population at Hidden Valley. All plants of *Cyanea truncata* that remain are immature; the adult plants were destroyed by feral pigs (S. Perlman, pers. comm., 1991). While there is no evidence of predation on the other fleshy-stemmed plant species proposed in this rule, none of them are known to be unpalatable to pigs. Predation is therefore a probable threat to *Lobelia oahuensis* and *Rollandia crispa* in Pia and Niu valleys where pigs have been reported.

Predation of Hawaii's native vegetation by goats and the extensive damage caused by them have been well documented (Tomich 1986, van Riper and van Riper 1982). Although browsing by goats is not confirmed for the *Hesperomannia arborescens* population on Molokai, it is probable that such activity occurs, owing to the large number of goats that roam there.

Two rat species, *Rattus rattus* (black rat) and *R. exulans* (Polynesian rat), and to a lesser extent other introduced rodents, eat large, fleshy fruits and strip the bark of some native plants (Cuddihy and Stone 1990, Tomich 1986, Wagner *et al.* 1985). There are confirmed accounts of predation of plants in the bellflower and African violet families which have fleshy stems and fruits (J. Lau, pers. comm., 1991). It is probable that rats eat the fruits of *Cyanea truncata, Cyrtandra crenata, Cyrtandra polyantha, Lobelia oahuensis*, and *Rollandia crispa*, all of which produce fleshy fruits and stems and grow in areas where rats occur (J. Lau and J. Obata, pers. comms., 1991).

Little is known about the predation of certain rare Hawaiian plants by slugs, particularly *Milax gagantes*, which is found in wet montane habitats (Howarth 1985). Indiscriminate predation by slugs on plant parts of *Lobelia oahuensis* and particularly the fruits of *Rollandia crispa* has been observed; field botanists believe that the effect of slugs on the decline of these and related species may be significant (S. Perlman, pers. comm., 1991). Slugs pose a serious threat to these two species because they chew through the stems and eat the fruit, reducing the vigor of the plant and limiting the number of seeds for germination.

D. The Inadequacy of Existing Regulatory Mechanisms

Of the 11 proposed species, a total of 8 have populations located on privately owned land, 10 on State land, and 2 on Federal land. One species is located exclusively on private land and one is found only on State land. There are no State laws or existing regulatory mechanisms at the present time to protect or prevent further decline of these species on private land. However, Hawaii 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)). State regulations prohibit the removal, destruction, or damage of plants found on State lands. Despite the existence of State laws and regulations which give protection to Hawaii's native plants, their enforcement is difficult due to limited funding and personnel. 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). 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)). Further, the State 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).

Listing of these 11 species would reinforce and supplement the protection available under the State Act and other laws. The Federal Act would also offer additional protection to these 11 species because, if they were to be listed as endangered, it would be a violation 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 number of populations and individuals of most of these species increases 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. Three of the proposed species, *Chamaesyce deppeana, Cyanea truncata,* and *Cyrtandra crenata,* are know from a single population. Five other proposed species are known from only two to five populations (See Table 1). Ten of the 11 proposed species are estimated to number no more than 100 known individuals. Four of those species, *Cyrtandra crenata, Cyrtandra polyantha, Melicope lydgatei,* and *Rollandia crispa,* are estimated to number no more than 10 individuals.

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 11 plant species as endangered. Ten of the species proposed for listing either number no more than about 100 individuals or are known from 5 or fewer populations. The 11 species are threatened by 1 or more of the following: Habitat degradation and/or predation by feral pigs and goats; competition for space, light, water, and nutrients by alien plants; habitat loss from fires; recreational activities; and predation by animals. Small population size and limited distribution make these species particularly vulnerable to extinction from reduced reproductive vigor or from stochastic events. Because these 11 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. Therefore, the determination of endangered status for these 11 plant species appears warranted.

Critical habitat is not being proposed for the 11 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 human-caused 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 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 are several Federal activities within the currently known habitats of these plants. Populations of five species are located on or along the boundary of large parcels of land in the northern Koolau Mountains that are leased by the U.S. Army from the State and private entities: two populations of *Eugenia koolauensis,* six of *Hesperomannia arborescens* one of the two known populations of *Lycopodium nutans,* one of the two known populations of *Melicope lydgatei,* and three populations of *Tetraplasandra gymnocarpa.* The land is used for the training of Army personnel, which entails foot travel and ground maneuvers by soldiers but does not include firing of ordnance (A. Kanno, pers. comm., 1991). Two species have populations on Federally owned land: *Lycopodium nutans* is located on the boundary between State land and Schofield Barracks Military Reservation, under the jurisdiction of the U.S. Army, and *Tetraplasandra gymnocarpa* is located on the boundary between privately owned land and Lualualei Naval Reserve. Portions of Schofield Barracks are used by the military for ordnance training, which includes a buffer zone adjacent to impact areas. *Lycopodium nutans* is located outside of the impact and buffer zones. At Lualualei Naval Reserve, there is no direct use by the U.S. Navy of the area where *Tetraplasandra gymnocarpa* grows and entry by civilians is monitored. Because of these precautions, it is unlikely that the activities that occur at Schofield Barracks and Lualualei Naval Reserve would directly affect the continued existence of the plants.

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 or threatened 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 ensure 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. Two proposed species grow on federally owned land and five species occur on land leased by the U.S. Army from the State and private parties. Current military activities on those lands are not likely to adversely affect the proposed species. There are no other known Federal activities that occur within the present known habitat of these 11 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 and threatened plant species. With respect to the 11 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 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 nor 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).

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 primary author of this proposed rule is Joan M. Yoshioka, 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). Substantial data were generously contributed by Joel Lau, Hawaii Heritage Program; Kenneth Nagata, U.S. Dept. of Agriculture; and John Obata 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 amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: 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					
*	*	*	*	*		
Araliaceae—Ginseng family:						
*	*	*	*	*		
Tetraplasandra gymnocarpa	'Ohe'ohe	U.S.A. (HI)	E		NA	NA
*	*	*	*	*		

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster Family:						
Hesperomannia arborescens	None	U.S.A. (HI)	E		NA	NA
Campanulaceae—Bellflower family:						
Cyanea truncata	Haha	U.S.A. (HI)	E		NA	NA
Lobelia oahuensis	None	U.S.A. (HI)	E		NA	NA
Rollandia crispa	None	U.S.A. (HI)	E		NA	NA
Euphorbiaceae—Spurge family:						
Chamaesyce deppeana	Akoko	U.S.A. (HI)	E		NA	NA
Gesneriaceae—African Violet family:						
Cyrtandra crenata	Ha'iwale	U.S.A. (HI)	E		NA	NA
Cyrtandra polyantha	Ha'iwale	U.S.A. (HI)	E		NA	NA
Lycopodiaceae—Clubmoss family:						
Lycopodium nutans	Wawae'iole	U.S.A. (HI)	E		NA	NA
Myrtaceae—Myrtle family:						
Eugenia koolauensis	Nioi	U.S.A. (HI)	E		NA	NA
Rutaceae—Citrus family:						
Melicope lydgatei	Alani	U.S.A. (HI)	E		NA	NA

Dated: September 29, 1992.

Richard N. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 92-24860 Filed 10-13-92; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 685

[Docket No. 920942-2242

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Proposed rule

SUMMARY: NMFS proposes to amend the regulations implementing the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). The proposed rule would revise requirements for the marking and identification of gear used by operators of domestic and foreign pelagic longline fishing vessels operating under the FMP. The change will require longline vessel operators to mark all longline floats and buoys, whether deployed in the exclusive economic zone (EEZ) or possessed on board the vessel. The present regulations require longline fishing vessel operators to mark floats and buoys only when attached to deployed longline gear; this limits the effectiveness of the regulations. The proposed rule will also allow for the confiscation of unmarked longline gear that is found deployed in the EEZ, which will reduce the likelihood of abandoned gear impacting other fisheries or protected species.

DATES: Written comments on the proposed rule must be received on or before November 13, 1992.

ADDRESSES: Send written comments to: Gary Matlock, Regional Operations Director, Southwest Region, NMFS, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, at (310) 980-4034; or Alvin Z. Katekaru, NMFS, at (808) 955-8831.

SUPPLEMENTARY INFORMATION: The FMP requires longline fishermen to maintain accurate logs of their catch and effort, and prohibits them from fishing in closed areas around the main Hawaiian Islands, the Northwestern Hawaiian Islands, and Guam and its offshore banks. Operators of domestic longliners are presently required to mark each of their longline buoys and floats with the vessel's official number when the gear is deployed in the EEZ. Current foreign fishing regulations require the marking of the terminal ends of deployed longline gear with the vessel's international radio call sign; non-deployed and non-terminal deployed buoys and floats are not required to be marked. Representatives of enforcement agencies have recommended that: (1) All buoys and floats on board a longline vessel be marked, not only those deployed, to ensure that unmarked gear would not be used in the areas closed to longline fishing; and (2) that the official number be of a color in contrast to the background material, making visual identification easier. This proposed rule would implement those recommendations.

The Western Pacific Regional Fishery Management Council (Council) recommended additional language in the proposed regulations that gives authority to the Secretary of Commerce (Secretary) or an authorized officer to dispose of any unmarked gear found deployed in the EEZ in violation of the FMP. This provision already exists for foreign gear that is unmarked or incorrectly identified, and is proposed to be extended to domestic longline gear. The proposed regulations state that longline gear not in compliance with the

FMP and found in the EEZ would be considered unclaimed or abandoned property and may be disposed of in the appropriate manner. Abandoned longline gear poses a threat to endangered and threatened species (primarily marine mammals and turtles), and increases the possibility of gear conflicts with other fisheries.

The Council recommended the proposed changes at its July 1–2, 1992, meeting (which was advertised and open to the public), after the U.S. Coast Guard and the NMFS Enforcement Office explained that the marking of all buoys and floats aboard a longline vessel would discourage fishermen from using the gear in a closed area. The Council's standing committees for enforcement and pelagic fisheries concurred with the recommendations, and no negative comments were received from fishermen during the public comment period of the Council meeting.

Classification

This proposed rule is published under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this proposed rule is necessary for the conservation and effective management of the pelagic resources of the western Pacific region. the Assistant Administrator has also determined that the proposed rule will minimize adverse impacts on endangered and threatened species, and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that the proposed rule is categorically excluded from the requirements to prepare an environmental impact statement (EIS) or environmental assessment (EA) under 6.02c(3)(f) of NOAA Administrative Order 216–6. An EIS was prepared with the original FMP, and EA's have been prepared for subsequent amendments to the FMP, including the amendment establishing permits, logbooks, and other requirements for longline vessels. The proposed rule is a modification of the regulations implementing the FMP and its amendments, and will not have significant impacts on the human environment.

The Assistant Administrator has initially determined that this is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The proposed rule will not have a cumulative effect on the economy of $100 million or more, nor will it result in major increases in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Since marking of floats and buoys is a standard practice in most fixed gear fisheries, most longline vessel operators already mark all floats and buoys. Further, floats and buoys on deployed gear are already required to be marked in the longline fishery. Therefore, this rule only affects those few operators who will have to mark floats and buoys not already marked. As a result, a regulatory flexibility analysis was not prepared.

The Regional Director of the Southwest Region, NMFS, initially determined that the proposed rule does not directly affect the coastal zone of any state with an approved coastal zone management program. This determination has been sent to the state agencies with coastal zone management responsibilities in Hawaii, American Samoa, Guam, Northern Mariana Islands and other U.S. possessions in the Pacific Ocean area.

This proposed rule does not contain collection-of-information requirements subject to the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 685

American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Northern Mariana Islands.

Dated: October 7, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR parts 611 and 685 are proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. In § 611.81, paragraph (d) is revised to read as follows:

§ 611.81 Pacific billfish, oceanic sharks, wahoo, and mahimahi fishery.

* * * * *

(d) *Vessel and gear identification.* (1) The operator of each FFV must comply with the vessel and gear identification requirements of § 611.5.

(2) *Longline gear identification.* In addition to the gear marking requirements contained in § 611.5(c),

(i) The operator of each FFV must ensure that the vessel's international radio call sign be affixed to each of the vessel's longline buoys and floats, whether attached to a deployed longline or possessed on board the vessel; and

(ii) Markings must be legible and permanent, and must be of a color that contrasts with the background material.

* * * * *

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

3. The authority citation for part 685 continues to read as follows:

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

4. Section 685.12 is revised to read as follows:

§ 685.12 Longline gear identification.

(a) *Identification.* The operator of each vessel in the fishery management area must ensure that the official number of the vessel be affixed to every longline buoy and float, including each buoy and float that is attached to a radar reflector, radio antenna, or flag marker, whether attached to a deployed longline or possessed on board the vessel. Markings must be legible and permanent, and must be of a color that contrasts with the background material.

(b) *Enforcement action.* Longline gear not in compliance with paragraph (a) of this section and found deployed in the EEZ will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by the Secretary or an authorized officer.

[FR Doc. 92–24829 Filed 10–13–92; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 57, No. 199
Wednesday, October 14, 1992

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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Alabama Advisory Committee to the U.S. Commission on Civil Rights will meet on October 21, 1992, from 6 p.m. until 8 p.m. at the Radisson Hotel, 808 South 20th Street in Birmingham, Alabama. The purpose of the meeting is to discuss the draft report, Is There A Need For A Human Relations Commission in the State of Alabama?

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Division (816) 426–5253, (TTY 816–426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 6, 1992.

Carol-Lee Hurley,

Chief Regional Programs Coordination Unit.

[FR Doc. 92–24867 Filed 10–8–92; 1:00 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1993 National Census Test.

Form Number(s): DC–1B, DC–1B(S).

Agency Approval Number: None.

Type of Request: New collection.

Burden: 3,935.

Number of Respondents: 21,500.

Avg Hours Per Response: 11 minutes.

Needs and Uses: The Census Bureau plans to conduct the 1993 National Census Test, also known as the Mail/Telephone Test (MTT), as part of a program of research and development to assist in formulating policy and design options for the 2000 Census of Population and Housing. The overall goal of the MTT is to measure the extent to which the public responds to a basic census questionnaire through the mail (using a postage–free return envelope) or by telephone (over a toll–free line) when given the option of using those two media. The MTT will determine whether overall response rates can be improved by offering the opportunity for the recipients of census forms to respond by telephone. It will gauge the item nonresponse effects via the two response media, mail and telephone. The test also is designed to measure the effectiveness with which mailing treatments—featuring varying methods for inviting respondents to report their census data by telephone—stimulate the use of this medium.

Affected Public: Individuals or households.

Frequency: One–time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 6, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92–24914 Filed 10–13–92; 8:45 am]

BILLING CODE 3510–07–F

Foreign-Trade Zones Board [Docket 1–92]

Foreign-Trade Zone 119—Minneapolis/St. Paul, Application for Subzone, Davisco International, Inc., Dairy Products Processing Plants, St. Peter/Nicollet, MN; Amendment of Application

The pending application of the Greater Metropolitan Foreign Trade Zone Commission, grantee of FTZ 119, requesting authority for special-purpose subzone status for export activity at three intermediate dairy products manufacturing plants of Davisco International, Inc. (Davisco), located in St. Peter and Nicollet, Minnesota (FTZ Doc. 1–92, filed 1–10–92, 57 FR 3136, 1–28–92), has been amended to include an additional plant site.

The new site is Davisco's proposed manufacturing facility in Le Sueur, Minnesota, currently under construction. It is located at 620 N. Main Street in Le Sueur, some 55 miles southwest of Minneapolis, Minnesota. The Le Sueur plant will become the company's primary dairy products manufacturing facility, and the other three sites will be converted to handle support/warehousing functions.

The amended application remains otherwise unchanged. The comment period is reopened to November 13, 1992.

The amendment is available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th Street & Constitution Avenue NW., Washington, DC 20230.

Dated: October 6, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–24911 Filed 10–13–92; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Atlantic Sea Scallop Fishery

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

ACTION: Notice of intent to prepare a supplemental environmental impact

statement (SEIS) and notice of scoping process.

SUMMARY: NMFS announces the intention of the New England Fishery Management Council (Council) to prepare an SEIS to assess the potential impacts on the human environment of an amendment to the Fishery Management Plan for the Atlantic Sea Scallop Fishery (FMP). The amendment would modify the current meat count (size control) management system and add an effort control program for all resource area.

In addition, the Council announces a continuing public process to determine the scope of issues under consideration and the significant issues related to controlling access to public fishery resources. The purpose of this notice is to inform the public of this ongoing process and of upcoming opportunities to participate in the further development of amendment 4 to the FMP.

ADDRESSES: Address scoping comments and request for additional information to Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: The Council proposes to amend the FMP that was prepared under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) that was implemented on May 15, 1982. Measures proposed for inclusion in Amendment 4, if adopted, would modify the current meat count management program and establish an effort control program for the Atlantic sea scallop fishery. NMFS and the Council both recognize that scoping of issues has been an ongoing process for the last three years through deliberations and public hearings conducted by the Council.

Backgound

The scoping process for alternative approaches to the meat count standard began with public hearings on Amendment 2 in June 1987, followed by public hearings in 1989 and 1990 for Amendments 3 and 4 respectively. Alternatives considered at those hearings included a 3½ inch (89 mm) minimum shell height requirement, staggered area closures, seasonal closures, modifications to the meat count standard, gear restrictions, and effort controls.

The Problem

The Council is considering modifying the meat count standard for several reasons. First, although recruitment of new scallops (the number of new scallops available for harvest each year) to both the Georges Bank and Mid-Atlantic stocks has been moderate to excellent in recent years, fishing mortality (the proportion of the stock that is harvested) has been high. Recruiting scallops are harvested soon after entry into the fishery. The meat count standard, which is based on an average number of meats per pound for each individual trip, does not prevent the harvest of some very small scallops. Fishing at the current rate is expected eventually to reduce the scallop resource to low levels because unusually high recruitment is unlikely to continue. According to the Federal Guidelines for Fishery Management Plans (50 CFR part 602), a stock that is unable, because of fishing levels, to produce enough new recruits to sustain itself at average long-term levels is "overfished." The proposed amendment includes this definition of overfishing for the sea scallop resource concluding that the resource is currently overfished.

Second, the use of an average size requires detailed procedures for monitoring and enforcement. For enforcement agents, current problems include cumbersome and time consuming sampling procedures that apply to hundreds of fishing vessels operating from Maine to North Carolina. The problem is exacerbated by the relatively few number of agents and the disproportionate allocation of funds for enforcement activities in different area. This led to complaints that there was unequal enforcement of the meat count measure.

Purpose and Objectives

The current FMP relies on two measures, the 30 average meat count standard for shucked scallops and the 3½ inch (89 mm) minimum shell height standard for unshucked scallops. Amendment 4 is intended to eliminate the problems caused by the meat count controls and to rebuild and conserve the sea scallop resource.

The current proposal contains, as the preferred alternative, a days-at-sea reduction program to be phased in over seven years. Reductions in fishing mortality are expected to stabilize landings and extend the yield of scallops over time. The reductions are expected to produce net benefits relative to the continuation of the meat count management program.

Proposed Management Measures and Preferred Alternative

A. Moratorium

A permit moratorium would cap the number of vessels that fish for scallops. Access would be restricted to those vessels with federal scallop permits and scallop landings in excess of 400 pounds of scallop meats on any trip recorded in either the 1988 or 1989 NMFS weighout database or in the state weighout databases. Other criteria would apply to new vessels, rerigged vessels and boats that are replaced or upgraded. There would be restrictions on permit transfer and ownership, a requirement to report intent to participate in the fishery on either a full or part-time basis and a process to appeal denial of permit.

B. Fishing Effort Reductions

Total days at sea fished by vessels in the Atlantic sea scallop fishery would be reduced equally each year for five years with a one year pause in years 3 and 6. If fishermen significantly improve their fishing power as days-at-sea reductions are imposed, the reduction schedule may be adjusted and replaced by a more restrictive schedule. Alternately, there may be smaller reductions in days at sea in a given year if other restrictions such as limits on crew size and gear modifications further reduce fishing power. The amendment will establish a procedure for the review and subsequent adjustment of the fishing effort reduction schedule.

C. Vessel Categories and Specific Allocations

Qualifying scallop vessels (using any gear) would be separated into two groups consisting of full and part-time vessels. The part-time fleet would be further divided. Part-time scallopers who fish less than 38 days per year would be characterized as occasional participants and would be assigned an average of 18 days at sea annually in year one. The remaining group, the part-time sector who fish between 38 and 150 days, would receive an average of 92 days at sea in year one. There would be a cap of 205 days at sea for the full-time fleet during the first year, followed by a reduction in those days (11–14 percent) for years two, four, five and seven. Similar reductions are imposed on the occasional and part-time fleets. The assignment of vessels to each group would be based on historical performance of the vessel during the period 1985 through 1990.

D. Other Measures

To address the absence of age-at-entry controls in the new amendment, a 3¼ inch (83 mm) ring size requirement in the scallop dredge in proposed for the first two years of the program with an increase to 3½ (89 mm) inches in year three. Other gear restrictions would apply to both dredges and trawls. Additional measures under consideration include a maximum crew size of nine, including the captain; a prohibition on the use of shucking and sorting machines for shuckers; a continuation of the 12-hour offloading windows and the 3½ (89 mm) inch shell height standard; and annual permit and mandatory reporting requirements for vessels, operators, and first purchasers.

Alternatives Under Consideration

The public hearing document and draft SEIS will also include alternatives to the number of days allocated to different vessel categories: (1) A limit on the days at sea based on historical days at sea for 22 groups of vessels instead of three groups, thereby allowing the days at sea limits to more accurately reflect actual fishing patterns; (2) an adjustable trip limit with a fixed number of layover days; and (3) a fixed trip limit with an adjustable number of layover days.

Scoping Process

Since 1987, persons affected by or otherwise interested in a program to eliminate the current meat count management program and establish an effort control program for the Atlantic sea scallop fishery primarily through reductions in fishing effort, have participated in determining the scope and significant issues to be analyzed in the SEIS by submitting written comments and attending public hearings. Scoping consisted of determining the range of actions, alternatives, and impacts to be considered in the SEIS. Actions include those that may be closely related, cumulative, or similar. Alternatives include the "no-action" alternative and other reasonable courses of action. Impacts may be direct, indirect, individual, or cumulative. The scoping process also identified and eliminated from detailed study issues that were not significant.

More information about Amendment 4 and the scoping process may be obtained from the Council (see **ADDRESSES**).

Timetable for SEIS Preparation and Decisionmaking Schedule

The Council has adopted a tentative schedule for preparation, review, and approval of Amendment 4. Under this schedule, the draft SEIS is planned for completion by the Council's October 1992 meeting. The Council would then decide at that meeting whether to submit the draft SEIS for public review. Oral comments to the Council on its decision could be made at that meeting. If the Council's decision is affirmative, public review and comments on the draft SEIS would be accepted during a 45-day comment period in November and December 1992. After considering public comments, the Council staff would prepare a final SEIS for consideration by the Council before making its decision to adopt Amendment 4. At its February 1993 meeting, the Council would decide whether to submit Amendment 4 on the FMP to the Secretary for review. If the Council's decision is affirmative, the final SEIS would be submitted with the amendment recommendation and other rulemaking documents to the Secretary for review. The Council reserves the right to modify or abandon this schedule, as necessary.

Under the Magnuson Act, Secretarial review of a proposed amendment is completed in no more than 95 days after a Council submits the amendment. The Secretarial review includes concurrent public comment periods on the amendment and proposed regulations. If approved by the Secretary under this schedule, the Atlantic sea scallop management measures could be effective in September 1993.

Dated: October 8, 1992.

David S. Crestin,

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

[FR Doc. 92-24889 Filed 10-13-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Denial of Marine Mammal Permit (P502).

On March 13, 1992, notice was published in the **Federal Register** (57 FR 8863) that an application had been filed by the Marine Animal Resource Center, 2201 34th Avenue, West, Seattle, WA 98199, for a Permit to incidentally harass up to 1000 harbor seals (*Phoca vitulina*) while collecting dead specimens from rookeries in Puget Sound and coastal Washington State.

Notice is hereby given that on October 2, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service denied a Permit for the above taking based on NMFS' determination that the proposal as outlined in the application did not meet the criteria for issuance of a scientific research permit and the applicant's failure to respond to inquiries to address concerns of the reviews.

Documentation on this application and NMFS decision are available for review, by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713-2289); and Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE BIN C15700, Seattle, Washington 98115 (206/526-6150).

Dated: October 2, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-24441 Filed 10-13-92; 8:45 am]

BILLING CODE 3510-22-M

Patent and Trademark Office

[Docket No. 920762-2162]

Review of Patent and Trademark Office Appeal Procedures

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice; extension of comment period.

SUMMARY: The Patent and Trademark Office is extending the comment period for the Review of Patent and Trademark Office Appeal Procedures to November 30, 1992.

DATES: Written comments must be received by the Office of the Assistant Commissioner for External Affairs, by November 30, 1992. A public hearing will be held December 1, 1992, at 9:30 a.m. Requests to present oral testimony should be received on or before November 30, 1992.

ADDRESSES: Address written comments and requests to present oral testimony to Michael K. Kirk, Assistant Commissioner for External Affairs, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231. The hearing will be held in room 912, on the ninth floor of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia. Written comments and a transcript of the hearing will be available for public inspection in room 902 of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Michael K. Kirk, Assistant

Commissioner for External Affairs, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231. (703) 305–9300.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office published a notice and request for public comments in 57 FR 34123 (August 3, 1992) requesting comments on possible changes in the structure and operation of one of the statutory administrative tribunals (boards) within the PTO, namely, the Board of Patent Appeals and Interferences. The comment period was set to close on November 2, 1992. In order to provide sufficient time for the public to comment, the comment period is being extended to November 30, 1992, to ensure that all comments are considered. The public hearing has been reset for December 1, 1992, at 9:30 a.m.

Dated: October 7, 1992.

Douglas B. Comer,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks.

[FR Doc. 92–24887 Filed 10–13–92; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

October 8, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: October 16, 1992.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. 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) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

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 increased for swing and special shift.

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 56 FR 60101, published on November 27, 1991). Also see 57 FR 1146, published on January 10, 1992.

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 8, 1992.

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 January 7, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1992 and extends through January 31, 1993.

Effective on October 16, 1992, you are directed to amend further the directive dated January 7, 1992 to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Bangladesh:

Category	Adjusted twelve-month limit [1]
237	278,015 dozen.
335	109,502 dozen.
336/636	217,753 dozen.
342/642	220,043 dozen.
351/651	476,092 dozen.
363	15,922,325 numbers.
634	360,750 dozen.
635	246,357 dozen.
638/639	1,250,872 dozen.

[1] The limits have not been adjusted to account for any imports exported after January 31, 1992.

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. 92–24853 Filed 10–13–92; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Defense Initiative Advisory Committee

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC. on October 23, 1992.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C., app II, (1982)), it has been determined that this SDI Advisory Committee meeting concerns matters listed in 5 U.S.C. 552(c)(1)(1982), and that accordingly this meeting will be closed to the public.

Dated: October 7, 1992.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–24821 Filed 10–13–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Intent To Prepare a Supplemental Environmental Impact Statement for the Big Sunflower River Maintenance Project

AGENCY: U.S. Army Corps of Engineers, Vicksburg District, DoD.

ACTION: Notice.

SUMMARY: The proposed action is to provide maintenance on the Big Sunflower River, Little Sunflower River, and Bogue Phalia in order to reestablish the flow capacities of these streams to the original project standard.

FOR FURTHER INFORMATION CONTACT: Bob Barry, CELMK–PD–Q, 2101 North Frontage Road, Vicksburg, Mississippi 39180–5191, (601) 631–5425.

SUPPLEMENTARY INFORMATION: 1. *Proposed Action:* The proposed action would provide continued flood damage protection to rural residences and agricultural properties. A component of the Yazoo River Basin Project, the Big Sunflower River Basin Project was authorized by the Flood Control Act of 1944. This authorization provided for channel improvement for flood control

on the Big Sunflower River, Little Sunflower, and Bogue Phalia among others. An Environmental Impact Statement for the authorized project was finalized in September 1975.

2. *Alternatives:* Alternatives to be evaluated include no action, maintenance dredging, and channel clearing and snagging.

3. a. A scoping meeting will be held in the project vicinity during late 1992. Public notices to be published later will inform the general public of the location, time, and date of the scoping meeting.

b. Significant issues include bottom-land hardwoods, wetlands, endangered species, waterfowl, fish, water quality, cultural resources, socioeconomic conditions, etc. Additional environmental review and consultation requirements could be identified during the scoping process.

c. The Environmental Protection Agency, U.S. Fish and Wildlife Service, Soil Conservation Service, Mississippi Department of Environmental Quality, and the Mississippi Department of Wildlife, Fisheries and Parks will be invited to participate as cooperating agencies.

4. A Letter Report, including the SEIS, will be available for review by the general public in 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-24864 Filed 10-13-92; 8:45 am]

BILLING CODE 3710-PU-M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Stealth and Stealth Countermeasures Task Force will meet October 27, 1992, at 10 am., in the CNO's Conference Room at the Pentagon. These sessions will be closed to the public.

The purpose of this meeting is to evaluate U.S. Navy requirements for stealth and stealth countermeasures systems. The entire agenda for the meeting will consist of discussions of key issues related to stealth, stealth countermeasures, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and, are in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: October 1, 1992.

Geoffrey P. Lyon

LtCol, United States Marine Corps, Federal Register Liaison Officer.

[FR Doc. 92-24859 Filed 10-13-92; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF ENERGY

Pittsburgh Energy Technology Center; Non-competitive Financial Assistance Award

AGENCY: Bartlesville Project Office and Pittsburgh Energy Technology Center. Department of Energy.

ACTION: Renewal of a Grant Award with Stanford University Petroleum Research Institute.

SUMMARY: The U.S. Department of Energy (DOE), Bartlesville Project Office (BPO), announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (A) and (D), it intends to make a Non-competitive Financial Assistance (Grant) Award through the Pittsburgh Energy Technology Center to the Stanford University Petroleum Research Institute (SUPRI) for the continuation of their effort entitled "Research on Oil Recovery Mechanisms in Heavy Oil Reservoirs".

ADDRESSES: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA15236-0940.

FOR FURTHER INFORMATION CONTACT: Rhonda L. Dupree, Contract Specialist, Telephone: (412) 829-4949.

SUPPLEMENTARY INFORMATION:

Grant No: DE-FG22-93BC14899.

Title of Research Effort: "Research on Oil Recovery Mechanisms in Heavy Oil Reservoirs".

Awardee: Stanford University Petroleum Research Institute.

Term of Assistance Effort: Thirty six (36) months.

Cost of Assistance Effort: The total estimated value is $2,399,896.00.

Objective

The objective of this Grant is for the Stanford University Petroleum Research Institute (SUPRI) to continue conducting a complete spectrum of research directed towards increasing the recovery of heavy oils. The objectives of this effort are to continue research along the previous lines and to improve the recovery efficiency of heavy oil by conducting research in these five existing problem areas: (1) Flow properties studies; (2) in-situ combustion; (3) additives to improve mobility control; (4) reservoir definition; (5) support services; and (6) steamflooding.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (A) and (D), the SUPRI has been selected as the grant recipient. (A) The grant is a continuation of an activity presently being funded by DOE and for which competition for support would have a significant adverse effect on continuity or completion of the activity. (D) The applicant has an exclusive domestic capability to perform the activity successfully, based upon unique technical expertise and capability.

Dated: October 1, 1992.

Richard D. Rogus,

Contracting Officer.

[FR Doc. 92-24915 Filed 10-13-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-871-000, et al.]

Tucson Electric Power Co.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 6, 1992.

Take notice that the following filings have been made with the Commission:

1. Tucson Electric Power Company

[Docket No. ER92-871-000]

Take notice that on September 30, 1992, Tucson Electric Power Company (Tucson) tendered a Supplement No. 1 dated September 15, 1992 (the Supplement) to the Agreement entitled 1992 Short Term Power Sale Agreement dated March 15, 1992 (the Agreement) between Tucson and Citizens Utilities Company (Citizens). The Agreement established the terms for the sale of firm capacity and energy by Tucson to Citizens for the period commencing May 15, 1992 and ending September 30, 1992. On May 11, 1992, Tucson filed a request for deferral of action. On July 22, 1992, Tucson responded to a data request by the FERC staff. On July 31, 1992, Tucson tendered for filing a Notice of Cancellation (the Notice of Cancellation) of the Agreement. On

August 14, 1992, Tucson tendered an amended filing withdrawing the Notice of Cancellation.

Supplement No. 1 is being made pursuant to a request from the Commission's Staff to provide assurance that the Energy Charge shall not be less than Tucson's system incremental cost.

The Parties request waiver of the Commission's regulations regarding filing so as to permit this Agreement to become effective May 15, 1992.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Tucson Electric Power Company

[Docket No. ER92-867-000]

Take notice that on September 29, 1992, Tucson Electric Power Company (Tucson) tendered an Amendment No. 1 dated September 22, 1992 (the Amendment) to the Agreement entitled 1992 Short Term Power Sale Agreement dated March 15, 1992 (the Agreement) between Tucson and Citizens Utilities Company (Citizens). The Agreement established the terms for the sale of firm capacity and energy by Tucson to Citizens for the period commencing May 15, 1992 and ending September 30, 1992. On May 11, 1992, Tucson filed a request for deferral of action. On July 22, 1992, Tucson responded to a data request by the FERC staff. On July 31, 1992, Tucson tendered for filing a Notice of Cancellation (the Notice of Cancellation) of the Agreement. On August 14, 1992, Tucson tendered an amended filing withdrawing the Notice of Cancellation.

Amendment No. 1 is being made to extend the term of the Agreement to December 31, 1995 and to provide for additional capacity at different rates from the rate provided under the original Agreement.

The Parties request waiver of the Commission's regulations regarding filing so as to permit this Agreement to become effective October 1, 1992.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Tampa Electric Company

[Docket No. ER92-855-000]

Take notice that on September 24, 1992, Tampa Electric Company (Tampa Electric) tendered for filing a Letter Agreement that extends for one year, through December 31, 1996, an existing Letter of Commitment providing for the sale by Tampa Electric to the Utilities Commission, City of New Smyrna Beach, Florida (New Smyrna Beach) of capacity and energy from Tampa Electric's Big Bend Station.

Tampa Electric proposes that the change to the term of the commitment be made effective on November 23, 1992.

Copies of this filing have been served on New Smyrna Beach and the Florida Public Service Commission.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Electric and Gas Company

[Docket No. ER92-857-000]

Take notice that on September 25, 1992, Public Service Electric and Gas Company (PSE&G) tendered for filing a supplement to Rate Schedule FERC No. 98 to provide transmission service to Orange and Rockland Utilities, Inc., (O&R) for the interchange of electrical energy between Philadelphia Electric Company (PEPCO) and O&R. The supplement has no effect on the rate to be charged under Rate Schedule FERC No. 98.

PSE&G requests, with the customer's consent, a waiver of the Notice Requirements of § 35.3(a) of the Commission's Regulations so that the Rate Schedule can be made effective forthwith.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. PSI Energy, Inc.

[Docket No. ER92-863-000]

Take notice that PSI Energy, Inc. (PSI), formerly named Public Service Company of Indiana, Inc., on September 23, 1992, tendered for filing pursuant to the Power Coordination Agreement between PSI and Wabash Valley Power Association, Inc. (WVPA), a Seventh Supplemental Agreement dated August 1, 1992.

Said Supplemental Agreement provides for the following:

1. Modify Service Schedule I—Emergency Service to change PSI's and WVPA's rates.

A copy of the filing was served on Wabash Valley Power Association, Inc. and the Indiana Utility Regulatory Commission.

PSI has requested the proposed rates to become effective December 1, 1992.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Northern States Power Company

[Docket No. ER92-869-000]

Take notice that on September 25, 1992, Northern States Power Company (Wisconsin) (hereinafter "NSP-W") tendered for filing a resale saver switch rider for inclusion in NSP-W's W-1 firm power sale for resale service tariff. NSP-W requests an effective date of December 1, 1992.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER92-870-000]

Take notice that PacifiCorp, on September 30, 1992, tendered for filing, in accordance with 18 CFR part 35 of the Commission's Rules and Regulations the fully executed Intertie Agreement, Contract No. DE-MS79-86BP92299 (Intertie Agreement) between PacifiCorp and Bonneville Power Administration (Bonneville), Amendment No. 1 to the Intertie Agreement and Revision No. 2 to Exhibit C to the Intertie Agreement.

The Intertie Agreement, which was executed on July 8, 1986, provides for the joint participation, cost sharing and ownership of planned upgrades to the pacific northwest portion of the Pacific Northwest-Pacific Southwest AC Intertie.

PacifiCorp respectfully requests that the Commission grant a waiver of prior notice pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations and that an effective date of October 1, 1992 be assigned.

Copies of this filing were supplied to the Public Utility Commission of Oregon.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Company [Docket No. ER92-868-000]

Take notice that on September 30, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing two supplements to Rate Schedule FERC No. 85 between PG&E and the City of Santa Clara (Santa Clara). The first supplement is an agreement between PG&E and Santa Clara which addresses the operating and planning requirements of Santa Clara's Collierville Powerhouse Units 1 and 2, a part of the North Fork Stanislaus River Project, FERC License No. 2409. The second supplement is a revised Exhibit A-1 to the parties' Interconnection Agreement which sets forth new Contract Demand and Capacity Reserve forecasts which result

in revenue decreases to PG&E for 1991, 1992 and 1993.

Copies of this filing have been served upon Santa Clara and the California Public Utilities Commission.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER92-865-000]

Take notice that PacifiCorp, on September 29, 1992, tendered for filing, in accordance with 18 CFR 35.13(a)(2)(ii) of the Commission's Rules and Regulations, Amendatory Agreement No. 1 to the May 29, 1981 Transmission Agreement between PacifiCorp, Bridger Valley Electric Association, Inc. and Deseret Generation & Transmission Co-Operative, Supplement No. 8 to PacifiCorp's Rate Schedule FERC No. 280 (Redesignation of Rate Schedule No. 213 as Supplemented).

PacifiCorp respectfully requests that the Commission grant a waiver of prior notice pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations and in accordance with the Commission's discussion of prior notice waiver under FERC Docket No. ER92-346-000, *et al.* and that an effective date of June 29, 1992 be assigned.

Copies of this filing were supplied to the Wyoming Public Service Commission.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Virginia Electric & Power Company

[Docket No. ER92-866-000]

Take notice that Virginia Electric and Power Company (Virginia Power or the Company) on September 28, 1992, tendered for filing a revised rate schedule for transmission service applicable to Old Dominion Electric Cooperative (Old Dominion) under Appendix B to the Interconnection and Operating Agreement between the Company and Old Dominion.

Copies of the filing were served upon Old Dominion and the Virginia State Corporation Commission.

Comment Date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Montana-Dakota Utilities Company

[Docket No. ER92-872-000]

Take notice that on September 30, 1992, Montana-Dakota Utilities Company (Montana-Dakota), a Division of MDU Resources Group, Inc., tendered for filing a request for authority to amend its current contract with the United States Department of Energy, Western Area Power Administration (Western) to provide for the receipt of payments directly from third parties utilizing such power rather than from Western itself during the 1992-1993 winter season.

Montana-Dakota requests waiver of the notice requirement of § 35.3 of the Commission's Regulations and that the amended contract be made effective as of October 1, 1992.

Comment date: October 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24871 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2175-006, et al.]

Hydroelectric Applications [Southern California Edison Co. et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* Amendment of License.

b. *Project No.* 2175-006.

c. *Date Filed:* July 24, 1992.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Big Creek No. 1 and No. 2 Project.

f. *Location:* The project is located on Big Creek tributary to the San Joaquin River, in Fresno, Tulare, and Kern Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. *Applicant Contact:* Mr. R.R. Schroeder, Southern California Edison Company, P.O. Box 800, 2244 Walnut Grove Avenue, Rosemead, CA 91770, (818) 302-1564.

i. *FERC Contact:* Mohamad Fayyad, (202) 219-2665.

j. *Comment Date:* November 12, 1992.

k. *Description of Amendment:* The license requests approval of a revised exhibit M. The revised exhibit M describes proposed changes in the ratings of the main turbine and generator of Powerhouse No. 1, Unit No. 1.

The proposed changes include planned winding replacement in the generator, with a resultant increase in generator capacity due to the use of modern materials and design. Concurrently, the hydraulic turbine will be renovated. The proposed changes will result in an increase in the installed capacity of Unit No. 1 of 5.8 megawatts, and an increase in the hydraulic capacity of 4 cubic feet per second.

1. *This Notice Also Consists of the Following Standard Paragraphs:* B, C, and D2.

2a. *Type of Application:* New License.

b. *Project No.* 2336-009.

c. *Date Filed:* December 17, 1991.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Lloyd Shoals.

f. *Location:* On the Ocmulgee River in Butts, Jasper, and Newton Counties, Georgia.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Major H. Thompson, Jr., Manager, FERC Licensing and Compliance, 333 Pedimont Avenue, 16th Floor, Atlanta, GA 30308, (404) 526-7140.

i. *FERC Contact:* James Hunter at (202) 219-2839.

j. *Deadline Date:* December 28, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

l. *Description of Project:* The project consists of: (1) A reservoir with a surface area of 4,750 acres at normal full pool elevation 530 feet msl; (2) a 105-foot-high dam with a 530-foot-long earth embankment tie-in to the left bank and three concrete gravity sections; a 728-foot-long spillway section, a 198-foot-long gated intake section with six 12-foot by 12-foot octagonal water passageways through the dam connecting to the generating units, and a 143-foot-long non-overflow section at the right bank; (3) a concrete and brick powerhouse attached to the intake section containing six generating units with a total installed capacity of 18 MW; and (4) two step up transformers connecting directly to the applicant's

distribution system. The average annual generation is 63.4 GWh.

m. *Purpose of Project:* Power generated at the project is delivered to customers within the applicant's service area.

n. *This Notice also Consists of the Following Standard Paragraphs: A4 and D10.*

3a. *Type of Application:* Minor License.

b. *Project No.:* 11219–000.

c. *Date Filed:* December 30, 1991.

d. *Applicant:* Mayo Hydro.

e. *Name of Project:* Mayo Dam Hydro Project.

f. *Location:* On the Mayo River, near Mayodan, Rockingham County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Mr. Charles C. Wood, Jr., Mayo Hydro, 1240 Springwood Church Road, Gibsonville, NC 27249, (919) 449–5054.

i. *FERC Contact:* Mary Golato, (202) 210–2804.

j. *Deadline Date:* See paragraph D10.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

1. *Description of Project:* The proposed project would consist of: (1) An existing concrete, stone masonry dam 590.5 feet long and 13.5 feet high; (2) an existing reservoir with a surface area of about 11 acres, a normal water surface elevation of 586.4 feet mean sea level, and a storage capacity of 85 acre-feet; (3) and existing 24.5-foot-long abutment section; (4) an existing power canal about 1,600 long, 30 to 40 feet wide; (5) and existing 10-foot-diameter penstock approximately 85 feet long; (6) two proposed powerhouses (Phase I, upstream powerhouse containing 1 unit at 340 kilowatts (kW); and Phase II, downstream powerhouse containing 2 units at 1,100 kW;) with a total installed capacity of 1,440 kW; (7) two tailraces, one approximately 50 feet long by 30 feet wide and the other approximately 85 feet long by 40 feet wide; (8) a proposed 100-foot-long, 12.4-kilovolt transmission line; and (9) appurtenant facilities. The average annual generation would be 3,840,000 kilowatt hours.

m. *Purpose of Project:* Power generated would be sold to a local utility.

n. *This Notice also consists of the Following Standard Paragraphs:* A4 and D10.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address of Mr. Charles C. Wood, Jr., 1240 Springwood Church Road, Gibsonville, NC 27249.

4a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11309–000.

c. *Date Filed:* July 17, 1992.

d. *Applicant:* Sutter-Butte Power Corporation.

e. *Name of Project:* Therm I.

f. *Location:* At the California Department of Water Resources' Thermalito afterbay dam, on the Sutter-Butte main canal, in Butte County, California. Township 18 N, Range 1 E, Sections 5, and 6, and Township 19 N, Range 1 E, Section 33.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Stan Malinky, 311 D Street, West Sacramento CA 95605, (916) 372–0534.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* November 16, 1992.

k. *Description of Project:* The proposed project would develop the excess capacity of licensed Project No. 2100, and would consist of: (1) Four 12-foot-square, 30-foot-long rectangular concrete penstocks extending the existing outlet conduits; (2) two 10-foot-square bypass gates and culverts; (3) a powerhouse containing two generating units with a combined capacity of 3,700 kW and an average annual generation of 20 GWh; and (4) a 500-foot-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $80,000.

1. *Purpose of Project:* Project power would be sold.

m. *This Notice also consist of the Following Standard Paragraphs:* A5, A7, A9, A10, B, C, and D2.

5 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11310–000.

c. *Date Filed:* July 17, 1992.

d. *Applicant:* Thermalito Power Corporation.

e. *Name of Project:* Therm II.

f. *Location:* At the California Department of Water Resources' Thermalito afterbay dam, in Butte County, California. Township 19 N, Range 1 E, Section 33.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Stan Malinky, 311 D Street, West Sacramento CA 95605, (916) 372–0534.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* November 16, 1992.

k. *Description of Project:* The proposed project would develop the excess capacity of licensed Project No. 2100, and would consist of: (1) Four, 10-foot-square radial gates installed at the dam; (2) four, 10-foot-square, 80-foot-long concrete penstocks; (3) a powerhouse containing four generating units with a combined capacity of 8,000 kW and an average annual generation of 32 GWh; (4) a 1,000-foot-long concrete lined tailrace canal leading to the Feather River; and (5) a 500-foot-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $120,000.

l. *Purpose of Project:* Project power would be sold.

m. *This Notice also Consists of the Following Standard Paragraphs:* A5, A7, A9, A10, B, C, and D2.

6a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11318–000.

c. *Date Filed:* August 14, 1992.

d. *Applicant:* Little Salmon River Estates, Inc.

e. *Name of Project:* Fall Creek Hydropower Project.

f. *Location:* Partially on lands administered by the Bureau of Land Management on Fall Creek near the town of Pinehurst in Adams County, Idaho. Sections 21 and 22 in T22N, R1E.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Garth Baldwin, Little Salmon River Estates, Inc., 8977 West State Street, Boise, Idaho 83703, (208) 853–8407.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* November 30, 1992.

k. *Description of Project:* The purpose project would consist of: (1) A diversion structure and intake on Fall Creek; (2) a 7,800-foot-long, 14-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 900 kW; (4) a tailrace returning water to the Little Salmon River; (5) a 100-foot-long transmission line interconnecting to an existing transmission line along the Little Salmon River; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $80,000.

1. This Notice also Consists of the Following Standard Paragraphs: A5, A7, A9, A10, B, C, and D.

7a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11319–000.

c. *Date Filed:* August 14, 1992.

d. *Applicant:* Haines Light & Power Company, Inc.

e. *Name of Project:* Haines Hydroelectric Project.

f. *Location:* Partially on lands administered by the Bureau of Land Management on an unnamed reservoir in the Chilkoot Lake drainage system near the town of Haines in Alaska. Sections 23, 24, 25, 26, and 27 in T28S, R57E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Corry V. Hildenbrand, President, Haines Light & Power Company, Inc., 889 South Franklin, Juneau, Alaska 99801, (907) 463–6315.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* November 30, 1992.

k. *Description of Project:* The proposed project would consist of: (1) A 25-foot-high dam raising the surface elevation of an unnamed Bureau of Land Management lake by 25 feet and increasing the surface area of the lake from 90 acres to 160 acres; (2) a 4,600-foot-long, 20-inch diameter steel penstock; (3) a powerhouse containing one generating unit with an installed capacity of 2,500 kW; (4) a 160-foot-long tailrace; (5) a 14-mile-long transmission line interconnecting with an existing Haines Light & Power Company, Inc. transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $400,000.

1. *This Notice also Consists of the Following Standard Paragraphs:* A5, A7, A9, A10, B, C, and D2.

8a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11324–000.

c. *Date Filed:* September 8, 1992.

d. *Applicant:* Swift Creek Limited Partnership.

e. *Name of Project:* Swift Creek.

f. *Location:* In Mount Baker National Forest, on Swift Creek, in Whatcom County, Washington. Township 38 N, Range 9 E, and Section 29.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Michael S. Wright, Permit/Engineering, Inc., 1300—114th Avenue SE., Suite 220, Bellevue, WA 98004, (206) 451–7371.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* December 4, 1992.

k. *Description of Project:* The project would consist of: (1) A 13-foot-high concrete diversion dam; (2) 10-foot-diameter, 2,300-foot-long tunnel; (3) a powerhouse containing two generating units with a combined capacity of 10.3 MW and an average annual generation of 48.0 GWh; (4) a 16-mile-long transmission line; and (5) approximately 4,800 feet of new access roads.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $350,000.

l. *Purpose of Project:* Project power would be sold.

m. *This notice also Consists of the Following Standard Paragraphs:* A5, A7, A9, A10, B, C, and D2.

9a. *Type of Application:* Application for non-project use of project lands.

b. *Project No.* 1494–013.

c. *Date Filed:* September 3, 1992.

d. *Applicant:* Grand River Dam Authority.

e. *Name of Project:* Pensacola Dam/Grand Lake Project.

f. *Location:* Mayes County, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ron Coker, General Manager/CEO, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301–0409, (918) 256–5545.

i. *FERC Contact:* Dan Hayes, (202) 219–2660.

j. *Comment Date:* November 13, 1992.

k. *Description of Project:* The Grand River Dam Authority, licensee for the Pensacola Dam/Grand Lake Project has filed an application to convey project lands to the Town of Salina, Oklahoma. The lands are located in the SE¼ of the SW¼ of Section 15, T 21 N, R 20 E. The Town of Salina will construct, operate and maintain a water and wastewater treatment plant and a backwash storage facility at that location.

l. *This notice also Consists of the Following Standard Paragraphs:* B, C, and D2.

10a. *Type of Application:* New Major License.

b. *Project No.:* 2360–022.

c. *Date Filed:* December 27, 1991.

d. *Applicant:* Minnesota Power & Light Company.

e. *Name of Project:* St. Louis River Hydroelectric Project.

f. *Location:* On the St. Louis, Cloquet, Whiteface, Skunk, Beaver, and Otter Rivers in Carlton and St. Louis Counties, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Stephen A. Kopish, Hydro Operations Manager, Minnesota Power & Light Company, 30 West Superior Street, Duluth, Minnesota 55802, (218) 722–2641.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* December 9, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* This project includes nine developments. Four of these developments—Fond du Lac, Thomson, Scanlon, and Knife Falls—include power generating facilities.

The Fond du Lac development consists of: (1) An 80-foot-high concrete gravity arch dam; (2) a 160-acre, 1,280-acre-foot reservoir; (3) an 18-foot-diameter, 268-foot-long penstock; (4) a powerhouse containing one generating unit with a total installed capacity of 12 MW; and (5) appurtenant facilities.

The Thomson development consists of: (1) 25 individual dam segments with heights ranging from 6 feet to 50 feet; (2) a 375-acre, 2,400-acre-foot reservoir; (3) a 2.5-mile-long, 36-foot-wide power canal; (4) six 400-foot-long, 8-foot-diameter penstocks; (5) a powerhouse containing six generating units with a total installed capacity of 72.6 MW; and (6) appurtenant facilities.

The Scanlon development consists of: (1) 4 individual dam segments with heights ranging from 9 feet to 24 feet; (2) a 74-acre, 876-acre-foot reservoir; (3) a powerhouse containing four generating units with a total installed capacity of 1,600 kW; and (4) appurtenant facilities.

The Knife Falls development consists of: (1) 6 individual dam segments with heights ranging from 8 feet to 20 feet; (2) a 235-acre, 1,763 acre-foot reservoir; (3) a powerhouse containing three generating units with a total installed capacity of 2,400 kW; and (4) appurtenant facilities.

The remaining five developments-Fish Lake, Rice, Lake, Island Lake, Boulder Lake, and Whiteface—include only dams and storage reservoirs. Project features for those developments are presented in the following table:

Development	No. of dams	Maximum dam height (ft)	Reservoir surface area (acres)	Reservoir storage capacity (acre-ft)
1. Fish Lake	1	25	5,000	38,000
2. Rice Lake	2	12	3,107	16,000
3. Island Lake	3	57	11,200	171,520
4. Boulder Lake	4	26	4,100	30,300
5. Whiteface	5	39	4,800	46,900

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation from this project to be 390 GWh.

m. *Purpose of Project:* All project energy generated would be put into the applicant's electrical grid and distributed to its customers.

n. *This notice also consists of the following standard paragraphs:* B1 and E.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Minnesota Power & Light Company, located at 30 West Superior Street, Duluth, Minnesota 55802, or by calling Mr. Stephen A. Kopish at (218) 722–2641.

11a. *Type of Application:* New Major License.

b. *Project No.:* 2363–007.

c. *Date Filed:* December 26, 1991.

d. *Applicant:* Potlatch Corporation.

e. *Name of Project:* Cloquet Hydroelectric Project.

f. *Location:* On the St. Louis River in the city of Cloquet in Carlton County, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Glenn R. Koepp, Mead & Hunt, Inc., 6501 Watts Road, Suite 101, Madison, Wisconsin 53719, (608) 273–6380.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* December 9, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* This run-of-river project consists of: (1) a 47-foot-high, 530-foot-long concrete gravity dam; (2) a 64-acre, 90-acre-foot impoundment; (3) seven 10.5-foot-long, 8.5-foot-diameter penstocks; (4) a powerhouse containing four generating units with a total installed capacity of 6,504 kW; (5) a 500-foot-long transmission line leading to the applicant's paper mill; and (6) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation from this project to be 32,157 MWh.

m. *Purpose of Project:* All project energy generated would be utilized by the applicant's paper mill.

n. *This notice also Consists of the Following Standard Paragraphs:* B1 and E.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Potlatch Corporation, located at 207 Avenue C, Cloquet, Minnesota 55720, or by calling Mr. Charles Pottenger at (218) 879–1055.

12a. *Type of Application:* New Major License.

b. *Projects No.:* 2385–002.

c. *Date Filed:* December 4, 1991.

d. *Applicant:* Finch, Pruyn, and Company, Inc.

e. *Name of Project:* Glens Falls Project.

f. *Location:* On the Hudson River in Warren and Saratoga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. David P. Manny, Finch, Pruyn and Company, Inc., 1 Glen Street, Glens Falls, NY 12801–0396, (518) 793–2541.

i. *FERC Contact:* Robert Bell (RB), (202) 219–2806.

j. *Comment Date:* November 30, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The Project consists of a concrete-gravity, multiple arch dam on the upper Hudson River, upstream of Glens Falls. The project is located in Warren and Saratoga Counties in the vicinity of the City of Glens Falls, New York. The existing dam is owned by the applicant, Finch, Pruyn and Company (FPC) and Niagara Mohawk Power Corporation (NiMo). All other elements of the facility are exclusively owned by FPC. The current operating license was issued in 1963 for operation of three generating units, and was amended in 1964, 1965 and 1979 to the present configuration. The existing license expires on 31 December 1993. The Glens Falls dam has been operated cooperatively for power production since before 1845. Between 1913 and 1915 the wooden dam was replaced by the existing concrete structure and the top of the dam was raised to its present height in 1923 and 1924. NiMo and FPC equally share the use of river flows up to plant capacities. River flows above 5,565 cubic feet per second (cfs) are spilled over the dam under existing project conditions, when both FPS and NiMo are operating simultaneously. An existing 5,000 feet long 35.4 kV power line connects the plant to the existing NMPC power grid and will accommodate the proposed increased capacities discussed below.

In detail, the project is described as follows: (1) The Glens Falls dam is 450 feet long and 11 feet high, and diverts water to NiMo on the south side of the river and to FPC on the north side of the river. The hydraulic capacity is 4,465 cfs. The dam impounds water in a 167-acre reservoir during normal circumstances. The surface area during low flow is 165 acres. The normal maximum and minimum surface elevations are EL 269.1 and 268.6 NGVD respectively. The gross storage capacity and usable storage capacity of the reservoir are 1,083 acre-feet respectively. The dam has an uncontrolled spillway with 5 feet of flash boards. There is a log sluice near the northern end of the dam and an ice sluice at the southern end of the dam. The 90-foot long, 30-foot high, and 21-foot wide concrete headgate structure adjacent to the northern side of the dam conveys water into the power canal (forebay). Flow into the power canal is controlled by eight 7.5-foot wide and 12-foot high wooden slide gates in the headgate structure, each with a rack and pinion hoist. The headgate structure also

has a log sluice gate that is 7.5 feet wide and 22 feet high.

(2) The power canal is 550 feet long and 80 feet wide, with a depth of between 21 and 37 feet and a maximum flow velocity of 1.9 feet per second (fps) at full powerhouse capacity. (a) The upstream end (western) of the canal is bounded by the concrete headgate, (b) the downstream end (eastern) by a concrete headwall and turbine pressure case. (c) The south side of the canal is bounded by a freestanding concrete gravity wall topped by wooden flashboards to raise the elevation to approximately 270.1 foot NGVD. (d) The north side of the canal consists of a vertical wall excavated in the limestone bedrock. The floor of the canal is also excavated in the limestone bedrock. (d) The power canal supplies approximately 40 cfs of water to the existing power plant in the FPC paper mill as well as to the papermaking facilities in the mill.

(3) The powerhouse's outside dimensions are 98 feet by 136 feet, including an erection/storage area. The powerhouse and intake structure are constructed of reinforced concrete and founded on bedrock. The roof of the powerhouse is supported by steel trusses. The intake headwall located at the eastern end of the power canal supports a set of trashracks consisting of ⅜ inch by 3½ inch bars at 2 inch spacing with 1⅝ inch openings. The racks are cleaned using a cable-type trash rake running across the full width of the headwall.

(4) The powerplant has five horizontal Francis turbines, generators and associated equipment, and has an existing installed capacity of 12.09 MW. The foundation concrete for the turbines is also sited on bedrock. The generators are supported on concrete arches across the tailrace flumes. Water is supplied to the turbines through a 14-foot square opening in the headwall at each of the units. A pair of 7-foot wide by 14-foot high steel slide gates, each with an electric motor, can be lowered across each opening. Tailrace tunnels from the turbines leave the powerplant on the south side of the mill and discharge into the Hudson River downstream from Glens Falls.

FPC currently receives PURPA credits for 2.15 MW of capacity produced by turbine unit 3; FERC granted PURPA status to this unit in 1988. FPC proposes to demolish the existing headgate structure, construct a new headgate structure, and upgrade units 1, 2 and 5 with new runners to increase project capacity by 0.6 MW for a total capacity of 12.7 MW. Units 3 and 4 were rehabilitated in 1980 and 1984 respectively. FPC will obtain PURPA status for the additional capacity. The powerplant operates 24 hours a day, 7 days a week, to accommodate paper mill operation needs. During normal mill operations the mill utilizes more electric power than the generating capacity of the powerplant. Only on intermittent days will any surplus hydropower be transmitted to NMPC. Calculated gross average annual generation is 54,2000 MWhrs. The average load is 6,187 kW, and the plant factor is 48 percent, representing a 10 percent exceedance of the total river flow duration curve.

The new reinforced concrete headgate structure will be constructed upstream of the existing headgate structure. The new structure will be 87 feet long, 32 feet wide, and 33 feet high. Replacement of the structure is being proposed since rehabilitation of the existing structure to FERC and NY State Department of Environmental Conservation (NYSDEC) guidelines would be uneconomical. The proposed headgate structure will reduce power canal headlosses and increase generating capacity. The new structure will have 4 steel control gates, each 17.5 feet wide by 15.5 feet high. The sill elevation will remain at EL 248.1 NGVD.

(5) FPC proposes to operate the Glens Falls hydroelectric plant as a run-of-river station, in close coordination with the South Glens Falls Hydroelectric plant (NiMo) to accommodate combined instantaneous inflows to the impoundment equal to combined instantaneous outflows from the impoundment. FPC proposes a 6-inch tolerance to the impoundment water level below the top of the flashboards (EL 269.1). This is proposed as a practical operation tolerance because river flows in excess of about 15,000 cfs are likely to bend the flashboard support pins, which could result in the partial loss of flashboard planks. Sudden operation changes by the Feeder Dam and South Glens Falls plants due to unscheduled plant shutdowns, trashraking, or maintenance could result in substantial changes to the balance of maintenance impoundment inflow and outflow. These changes could preclude the FPC's ability to control the pond level within six inches. It is in FPC's and NiMo's best interest to keep the impoundment water level as close to the top of the flashboards as possible. Continuous flows will be maintained downstream of the project due to the run-of-river operation mode. Continuous flows will also be maintained during plant shutdown.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $4,237,385.

m. *Purpose of Project:* Project power would be utilized by the Applicant in its mill operation.

n. *This notice also Consists of the Following Standard Paragraphs: B1 and E1.*

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Finch, Pruyn and Company, Inc. 1 Glen Street, Glens Falls, NY, 12801–0396, (518) 793–2541.

13a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11317–000.

c. *Date Filed:* August 10, 1992.

d. *Applicant:* Carrob Energy Development, Inc.

e. *Name of Project:* Burrs Mills.

f. *Location:* On Jacobs Creek in the town of Burrville, Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Carmel A. Foltan, P.O. Box 284, North Waterboro, ME 04061, (207) 247–4938.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219–2811.

j. *Comment Date:* November 30, 1992.

k. *Description of Project:* The proposed project would consist of: (1) An existing 8-foot-high, 94-foot-long stone and concrete gravity-type dam having 63-foot-long overflow spillway; (2) a reservoir having a 0.25-acre surface area and a 1.0 acre-foot storage capacity at spillway crest elevation 825 feet NGVD; (3) a new intake structure at the dam's left (south) abutment; (4) a new 2.5 foot-diameter, 140-foot-long penstock; (5) a new powerhouse containing a turbine-generator unit rated at 80–kW operated at a 28-foot net head; (6) a new 20-foot-long tailrace; (7) a 100-foot-long transmission line; and (8) appurtenant facilities.

Applicant estimates that the average annual energy production would be 375,000 kWh and that the cost of the studies under the permit would be $5,000. Energy produced would be sold

to a local utility. The dam is owned by Rocco J. Marra.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs:

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION"', "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (November 13, 1992 for Project No. 2336–009 and November 20, 1992 for Project No. 11219–000). All reply comments must be filed with the Commission within 105 days from the date of this notice. (December 28, 1992 for Project No. 2336–009 and January 4, 1993 for Project No. 11219–000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions. When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list, a motion to intervene must be filed by the specified deadline data herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will be able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: October 7, 1992, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24872 Filed 10-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-724-000, et al.]

Granite State Gas Transmission Inc., et al.; Natural Gas Certificate Filings

October 5, 1992.

Take notice that the following filings have been made with the Commission:

1. Granite State Gas Transmission Inc.

[Docket No. CP92-724-000]

Take notice that on September 22, 1992, Granite State Gas Transmission, Inc. (Granite State) 300 Friberg Parkway, Westboro, Massachusetts 01581 filed in Docket No. CP92-724-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA), as amended, and part 157 of the Commission's Regulations, thereunder, for a temporary and permanent certificate of public convenience and necessity authorizing Granite State to increase its firm daily contract demands for sales to its two affiliated distribution company customers, Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Granite State, in Docket No. CP92-552-000, which is pending before the Commission, requested authorization to establish Bay State's daily contract demand at 95,829 Dth and Northern Utilities' at 22,970 Dth. In this application, Granite State requests authorization to increase its firm contract demand obligation for sales to Bay State to 126,279 Dth per day and its firm contract demand obligations to Northern Utilities to 27,520 Dth per day. Granite State requests that the authorizations be effective coincident with commencement of its purchases from Shell and the transportation services to deliver the gas to its system. According to Granite State, deliveries are expected to commence on or about November 1, 1992, but not later than January 1, 1993.

According to Granite State, it has a Gas Purchase Agreement with Shell Canada Limited (Shell) providing for the purchase of 35,000 MMBtu of natural gas a day on a firm basis and up to 14,000 MMBtu a day on an interruptible basis from Canadian sources for a 15-year term. It is stated that Shell has received the requisite license from the National Energy Board (NEB) to export the gas from Canada and Granite State has received approval from the Department of Energy, Office of Fossil Energy, (DOE/FE) pursuant to section 3 of the Natural Gas Act (NGA) to import the gas in DOE/FE Opinion and Order Nos. 449 and 449-A. It is also stated that the natural gas subject to the Purchase Agreement will be produced from Shell's reserves in the Province of Alberta and transported initially on the pipeline facilities of Nova Corporation to an interconnection with TransCanada Pipe Lines, Ltd. (TransCanada) and TransCanada will transport the gas eastward through Canada to its interconnection with the pipeline system of Iroquois Gas Transmission System L.P. (Iroquois) on the U.S.-Canadian border near Waddington, New York.

Granite State further states that it has firm transportation contracts with Iroquois, Tennessee Gas Pipeline Company (Tennessee) and Algonquin Gas Transmission Company (Algonquin) to transport the gas through their interconnected systems from the border to delivery points in Massachusetts for Granite State's account. According to Granite State, the Shell supply will be

an incremental addition to its firm system supply of natural gas and will enable it to increase its firm daily contract demand obligations to its affiliated distribution company customers, Bay State and Northern Utilities. It is further stated that the delivery of the Shell supply to Granite State has been delayed pending the construction of a new delivery system from Canada to the Northeastern U.S. following the Northeast U.S. Pipeline Projects proceeding. In the meantime, Granite State states the requirements of its customers and their dependence upon Granite State to meet their requirements has been growing. According to Granite State, it can absorb the new Shell supply in its system supply without displacing other long-term supplies in its portfolio.

Granite State requests waivers of §§ 154.38(d)(3) and 154.63 (19 CFR 154.38(d)(3) and 154.63)) to permit it to reflect the charges for the transportation services incurred to deliver the Shell deliveries in calculating the Transportation Cost Adjustment included in its sales rates. Granite State states that it requires no new or additional facilities to accept delivery of the Shell supply from the transporters or to provide the increases in the contract demand for sales to its customers.

Comment date: October 26, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. Southern Natural Gas Company

[Docket No. CP92-723-000]

Take notice that on September 21, 1992, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP92-723-000 a request pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon sales of natural gas to 6 existing customers, all as more fully described in the application which is on file with the Commission and open to public inspection.

Southern proposes to reduce the Maximum Daily Obligation (MDO) for 6 existing firm sales customers by abandoning a portion of each customer's MDO as detailed below.

Customer	MDO (Mcf)		Reduction (Mcf)	Requested effective date
	Present	Proposed		
Claxton, GA	1,888	1,588	300	10/1/92.
Colquitt, GA	250	201	49	5/5/92.
Hogansville, GA	1,659	1,390	269	10/1/92.
Millen, GA	1,498	1,006	492	10/1/92.
Mississippi Valley Gas Company	53,064	28,500	24,564	10/1/92.
Tallahassee, FL	1,523	498	1,025	5/5/92.

Southern states that the customers have requested the changes to reflect their current service requirements. It is stated that the reduced MDO's constitute a proposed abandonment by Southern of 26,699 Mcf per day. It is asserted that the effective dates listed above are requested to coincide with Southern's new service agreements with its customers. Southern states that no facilities are proposed for abandonment and that the proposal will not affect Southern's ability to meet its peak day demand for both transportation and sales customers.

Comment date: October 26, 1992, in accordance with Standard Paragraph F at the end of the notice.

3. East Tennessee Natural Gas Company

[Docket No. CP92-739-000]

Take notice that on September 28, 1992, East Tennessee Natural Gas Company (ETNGC), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-539-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to reassign volumes of natural gas delivered among existing delivery points to the Powell-Clinch Utility District (Powell-Clinch) in Tennessee, under ETNGC's blanket certificate issued in Docket No. CP82-412-000, all as more fully described in the request which is on file with the Commission and open to public inspection.

ETNGC requests authorization to reassign the volumes delivered to Powell-Clinch, a firm sales customer of Panhandle. It is stated that ETNGC sells a total contract demand of 6,200 Mcf of natural gas per day to Powell-Clinch under the terms of its CD-1 Rate Schedule and 2,263,000 Mcf on an annual basis. It is asserted that Powell-Clinch has requested the reassignment of volumes to increase deliveries by ETNGC from 411 Mcf per day to 800 Mcf per day at the existing Oliver Springs delivery point and to reduce deliveries from 5,789 Mcf per day to 5,400 Mcf per day at the existing Clinton delivery point. It is further asserted that the proposed reassignment would not change the total volumes Powell-Clinch receives from ETNGC on a daily or annual basis. ETNGC states that the changes have been requested to provide Powell-Clinch with increased operational flexibility. It is further stated that no new facilities would be required and that there would be no impact on ETNGC's peak day or annual deliveries.

Comment date: November 19, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. Penn-York Energy Corporation

[Docket No. CP76-492-050]

Take notice that on September 23, 1992, Penn-York Energy Corporation (Applicant), 10 Lafayette Square, Buffalo, New York, 14203, filed a petition to amend a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the Natural Gas Act and part 157 of the Commission's Regulations, so as to increase the authorized capacity at its Beech Hill underground storage field, as more fully set forth in the request that is on file with the Commission and open to public inspection.

Applicant seeks an amendment of the order issued by the Commission in Docket Nos. CP76-492-037 *et al.*, 38 FERC ¶61,135 (1987). The amendment would increase the authorized capacity of Applicant's Beech Hill underground natural gas storage field by 3 Bcf and would authorize Applicant to purchase the additional gas and inject it into Beech Hill. Applicant states it has experienced a loss in pressure at this storage field and proposes to correct the situation by expanding its storage capacity at Beech Hill, from 17.8 Bcf to 20.8 Bcf, increasing the base gas capacity from 7.9 Bcf to 10.9 Bcf. The application does not seek any change to the rates Applicant charges for its storage services.

Comment date: October 26, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24830 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-00001T Texas-76]

Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

October 6, 1992.

Take notice that on October 2, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Austin Chalk Formation in a portion of Washington County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area lies within Railroad Commission District 3 and consists of all or portions of the following surveys:

Survey	Abstract
W. Bridges	A-17.
E. Clampit	A-25.
S. Clampit	A-26.
Issac Jackson	A-65.
J. Neuman	A-91.
T.S. Saul	A-97.
P. Singleton	A-99.

The notice of determination also contains Texas' findings that the referenced portion of the Austin Chalk Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24835 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-00002T, Texas-77]

Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

October 7, 1992.

Take notice that on October 2, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Strawn-Detrital Formation in a portion of Crockett County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area lies within Railroad Commission District 7C, underlying a portion of the Live Oak Draw (Strawn) and Live Oak Draw, N. (Strawn) fields and includes parts of Block F, GC & SF Survey: E/2 Section 3, SW/4 Section 5, Sections 6, 7, 12, N/2 and SE/4 Section 13, S/2 Section 14, 15, S/2 and NE/4 Section 16 and the W/2 Section 5, Block P, T.C. & R.R. Survey.

The notice of determination also contains Texas' findings that the referenced portion of the Strawn-Detrital Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24875 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-00003T Texas-78]

Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

October 7, 1992.

Take notice that on October 2, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Travis Peak Formation in a portion of Freestone County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area lies within Railroad Commission District 5 and consists of

portions of the L. Connelly A–117 and G. Diaz A–178 Surveys.

The notice of determination also contains Texas' findings that the referenced portion of the Travis Peak Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24876 Filed 10–13–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–00004T Texas–79]

Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

October 7, 1992.

Take notice that on October 2, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Travis Peak Formation underlying certain portions of Gregg and Rusk Counties, Texas, qualified as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is located within Railroad Commission District 6 and consists of approximately 19,000 acres in the following surveys:

Survey	Abstract
Gregg County	
Barnett, S.S.	A–24,
Bradley, Eleanor	A–17
Cole, John	A–48
Edwards, Haden	A–64
Floyd, G.W.	A–72
Grace, George W.	A–261
Grisham, A.J.	A–84
Tutt, G.H.	A–202
Van Winkle, Mary	A–208
Walker, Phillip	A–210
Wells, Henry	A–222
Rusk County	
Bradley, Eleanor	A–950
Chisum, Claiborne	A–902
Edwards, Haden	A–951
Landers, Levi (N/2)	A–477
Van Winkle, Mary	A–975
Wells, Henry	A–955
Young, M.A.	A–983

The notice of determination also contains Texas' findings that the referenced portion of the Travis Peak Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24877 Filed 10–13–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RS92–14–000]

CNG Transmission Corp.; Prefiling Conference

October 6, 1992.

Take notice that a prefiling conference will be held in this proceeding on Tuesday, October 20, 1992, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, Washington, DC. The purpose of the conference is to discuss CNG's proposed plan for implementation of Order Nos. 636 and 636–A. All parties and the Commission Staff are invited to attend. For additional information, contact William J. Collins at (202) 208–0248.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24834 Filed 10–13–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–7–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 7, 1992.

Take notice that CNG Transmission Corporation ("CNG"), on October 2, 1992, pursuant to section 4 of the Natural Gas Act, as amended, and § 154.52 of the Commission's regulations, CNG Transmission Corporation ("CNG") submitted for filing as part of its FERC Gas Tariff, Original Volume No. 2A, six copies of First Revised Sheet No. 462.

CNG requests an effective dates for the proposed tariff sheet of November 1, 1992.

CNG states that the purpose of this filing is to add an incremental phase to the existing, certificated, phased service to Transcontinental Gas Pipe Line Corporation ("Transco"), under CNG's Rate Schedule X–74. CNG's service under this Rate Schedule was certificated as part of Phase II of the ANR Project. As reflected in the proposed tariff sheet, CNG and Transco have agreed to phase-in an additional 69,794 Dt/day of certificated transportation service effective November 1, 1992, and to attain the fully certificated quantity of 251,762 Dt/day, effective December 1, 1992.

CNG states that copies of the filing were served upon CNG's jurisdictional customers and interested state commissions. Copies of the filing are also available for public inspection, during regular business hours, at CNG's principal offices in Clarksburg, West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 15, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary

[FR Doc. 92–24882 Filed 10–13–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP93–2–000]

Gulf States Transmission Corporation; Petition for a Waiver of ACA Charges

October 7, 1992.

Take notice that on October 1, 1992, Gulf States Transmission Corporation (GSTC), tendered for filing its petition for a waiver of ACA Charges and a request for its petition to be accepted out-of-time.

GSTC states that on July 27, 1992, it received from the Commission a Statement of Annual Charges in the amount payable of $12,034. GSTC notes that the FERC ACA Charges are determined on projected throughput based on prior years volumes. GSTC indicates that § 382.105 of the Commission's regulations, 18 CFR 382.105, provides for waiver of the

regulations where there is a showing that the petitioner does not have the money to pay all or part of the annual charge, or if the petitioner does pay the annual charge, that the petitioner will be placed in financial distress or emergency.

GSTC states for year 1991, GSTC transported just 5,054,445 Mcf, which translates roughly to 7% load factor. GSTC states that to date, it has yet to transport any gas through its system for year 1992. GSTC notes that the decline in throughput is not reflected or taken into account in determining the ACA charge. GSTC argues that the annual ACA charge that GSTC is required to pay to the Commission, and which GSTC is to remit to the Commission in advance, cannot be recovered by GSTC within the year of the annual charge. Because of the steep decline in transportation volumes on its system, absent some relief, GSTC will not recover the pre-paid ACA charges.

GSTC states that imposition of the full ACA charge on GSTC would impose a heavy financial burden on an already underutilized and financially strapped pipeline. GSTC requests that the Commission grant its petition to accept its filing out-of time and waive the ACA charge requirements for § 382.105 of its regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 15, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24874 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-8-000]

Iroquois Gas Transmission System, L.P.; Filing

October 7, 1992

Take notice that Iroquois Gas Transmission System, L.P. ("Iroquois"), on October 2, 1992, tendered for filing with the Federal Energy Regulatory Commission ("Commission") proposed changes in its FERC Gas Tariff, Volume No. 1. Iroquois proposed in this filing to provide a Measurement Variance Gas Factor each month within a minimum and maximum percentage of 0.00% and 1.00% respectively. The Measurement Variance Gas Factor calculation includes a true-up mechanism that reflects the actual measurement variance from the prior month and the estimated measurement variance for the next month.

Iroquois states that copies of the filing were served on its jurisdictional customers, interested state regulatory commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 15, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of the this filing are on file with the Commission and are available in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24884 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA93-1-53-000]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

October 7, 1992.

Take notice that K N Energy, Inc. ("K N") on October 1, 1992 tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Purchased Gas Adjustment provision (section 19) of the General Terms and Conditions of K N's FERC Gas Tariff, First Revised Volume No. 1-B to reflect changes in current adjustments and surcharges. The filing proposes increases (decreases) to K N's rates per Mcf as set forth in the table below:

	Zone 1	Zone 2
CD, SF and WPS Commodity	0.1211	0.1211
D1 Demand	(0.0025)	(0.0036)
D2 Demand	0.0042	0.0053
WPS Demand	(0.0050)	(0.0072)
IOR Commodity	0.1228	0.1228

K N states that the filing reflects revision to its base tariff rates to reflect projected weighted average gas costs for the quarter ending February 28, 1993. The proposed effective date for the rate changes is December 1, 1992.

K N states that copies of the filing were served upon K N jurisdictional customers and interested public bodies.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before October 23, 1992, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a petition to intervene or a protest in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24879 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP93-3-000; CP93-4-000; RP93-9-000]

Northern Border Pipeline Co.; Northwest Alaskan Pipeline Co.; Applications and Proposed Changes in FERC Gas Tariff

October 5, 1992.

Take notice that on October 2, 1992, Northern Border Pipeline Company (Northern Border), 1111 South 103d Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP93-3-000 an application under sections 7(b) and 7(c) of the Natural Gas Act and section 9 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) for authorization to abandon its natural gas transportation service on behalf of Panhandle Eastern Pipe Line Company (Panhandle) and for authorization to provide a natural gas transportation service to Pan-Alberta Gas (U.S.) PAG-US).

Take notice that on October 2, 1992, Northwest Alaskan Pipeline Company (Northwest Alaskan), One Williams Center, Tulsa, Oklahoma 74172, filed in Docket No. CP93–4–000 an application under sections 7(b) and 7(c) of the Natural Gas Act and section 9 of the ANGTA to abandon the sale of natural gas for resale to Panhandle and to authorize the sale of natural gas for resale to PAG–US. Further, take notice that on October 2, 1992, Northwest Alaskan filed in Docket No. RP93–9–000 revisions to Rate Schedule X–2 of its FERC Gas Tariff, Original Volume No. 2.

Northern Border's Application

Northern Border (1) requests authority to abandon the firm transportation of 150,000 Mcf per day of natural gas for Panhandle and (2) requests new certificate authority to provide firm transportation of 150,000 Mcf per day of natural gas for PAG–US. The certificate authorization sought by Northern Border for providing service to PAG–US includes a provision pre-approving a transfer by PAG–US to Panhandle of the 10,000 Mcf per day of firm transportation service rights and obligations in the event of a failure by PAG–US to pay amount due and owing under its agreement with Northern Border within the time permitted thereunder. Northern Border states that such a provision is necessary because PAG–US alone does not meet Northern Border's creditworthiness standards and that Panhandle has agreed to act as guarantor in the event of a PAG–US default.

Northern Border states that its application is related to an offer of settlement filed by Panhandle on October 2, 1992 in Docket No. RP91–229–000, *et al.*, an application filed by Northwest Alaskan on October 2, 1992 in Docket No. CP93–3–000, and a petition filed by Northwest Alaskan on October 2, 1992 in Docket No. RP93–9–000.

Northwest Alaskan's Application and Petition

In its application, Northwest Alaskan proposes (1) to abandon the sale to Panhandle for resale of a daily average of 150,000 Mcf of Canadian gas transported through the eastern leg of the Alaskan Natural Gas Transportation System (ANGTS) previously authorized by the Commission in Docket No. CP78–123, *et al.* and (2) to amend the certificate of public convenience and necessity previously granted by the Commission in Docket No. CP78–123, *et al.* so as to authorize the sale to PAG–US for resale, as a replacement for Panhandle, of an annual average daily quantity of 150,000 Mcf of Canadian gas transported through the eastern leg of ANGTS.

In its petition, Northwest Alaskan tendered for filing the following revisions to Rate Schedule X–2 of its FERC Gas Tariff, Original Volume No. 2:

Tariff Sheet Number

Sixth Revised Sheet No. 200
Fourth Revised Sheet No. 201
Fifth Revised Sheet No. 221
Original Sheet Nos. 221A–221J
Fourth Revised Sheet No. 250
Sixth Revised Sheet No. 286
Original Sheet Nos. 286A–286G

Northwest Alaskan states that the proposed tariff revisions implement, in part, a broader transaction that is intended to restructure the arrangements amount Northwest Alaskan, its supplier, Pan-Alberta Gas, Ltd. (Pan-Alberta), its purchaser, Panhandle, and Northern Border. Northwest Alaskan's application and petition are related to Panhandle's offer of settlement filed on October 2, 1992 and Northern Border's application filed on October 2, 1992.

In summary, the proposed tariff revisions provide for (1) an assignment, at Pan-Alberta's request, of the gas purchase agreement between Northwest Alaskan and Panhandle from Panhandle to PAG–US; (2) a change in the minimum volume obligations; and (3) a change in the price to be paid by PAG–US under the Panhandle agreement.

These tariff revisions would become effective on the later of November 1, 1992, or the first day following the day on which the closing occurs in accordance with the closing agreement.

Motions to Intervene or Protest

Any person desiring to be heard or to make any protest with respect to Northern Border's and Northwest Alaskan's applications, or with respect to Northwest Alaskan's petition, should file with Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in the appropriate proceeding in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10) on or before October 15, 1992. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to these proceedings. Any person wishing to become a party to these proceedings or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of these filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24833 Filed 10–13–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER92–718–000]

Portland General Electric Co.; Filing

October 7, 1992.

Take notice that on September 10, 1992, Portland General Electric Company tendered for filing additional information, as requested by Commission Staff, relating to a proposed supplement to Rate Schedule No. 73, as set forth in Amendment No. 1 to the Long-term Power Sale Agreement with Western Area Administration.

Copies of the filing have been served on the distribution list, as included in the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24836 Filed 10–13–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–2–25–000]

Mississippi River Transmission Corp.; Rate Change Filing

October 7, 1992.

Take notice that on October 5, 1992 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Tariff sheet	Proposed effective date
Fourth Revised Sheet No. 4A.7.	Nov. 5, 1992.

Tariff sheet	Proposed effective date
Fifth Revised Sheet No. 4A.7.	Dec. 1, 1992

MRT states that Fourth Revised Sheet No. 4A.7 reflects the flowthrough of the final installment of take-or-pay charges billed to MRT by Trunkline Gas Company (Trunkline) in Docket No. RP92-124-000. MRT states that the allocation of take-or-pay cost among its customers reflected in the filing is in accordance with MRT's June 26, 1991 "Stipulation and Agreement on the Allocation and Recovery of Transition Costs from Upstream Pipelines (Settlement)," approved by Commission Order dated July 25, 1991 in Docket No. RP91-46-000, *et al.*

MRT states that Fifth Revised Sheet No. 4A.7 is being reserved for future use.

MRT states that a copy of this filing has been mailed to each of MRT's jurisdictional sales customers and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 15, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 92-24885 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-132-007, TM93-1-9-000]

Tennessee Gas Pipeline Co.; Filing

October 7, 1992.

Take notice that on October 5, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing an original and ten copies of the following tariff sheets to be included in its FERC Gas Tariff:

Fourth Revised Volume No. 1

To be effective September 1, 1992:
Substitute Second Revised Sheet No. 30
To be effective October 1, 1992:
First Revised Sheet Nos. 20-21A
First Revised Sheet Nos. 23-27
First Revised Sheet Nos. 29-29A
Third Revised Sheet No. 30
To be effective November 1, 1992:
Fourth Revised Sheet No. 30
Original Sheet No. 30A
Original Sheet No. 30B
First Revised Sheet Nos. 185-186
First Revised Sheet Nos. 189-190
First Revised Sheet No. 486

Original Volume No. 2

To be effective November 1, 1992:
Thirteenth Revised Sheet No. 9
Fifth Revised Sheet No. 9A

Tennessee states that the purpose of this filing is (1) to remove the Segment U charge from the NET-Niagara Rate Schedule, in compliance with the Commission's Order on Paper Hearing, issued on September 21, 1992 in Docket No. RP92-132-000, (2) to reflect a decrease in the ACA rate adjustment to Tennessee's commodity rates for the period October 1, 1992 through September 30, 1993, (3) to implement rates effective November 1, 1992, including incremental pressure charges for two NET customers in compliance with the Commission's Letter Order issued on February 13, 1992 in Docket Nos. CP89-629-009 and CP90-639-005 and the Commission's Order Amending Certificates, Approving Abandonment and Dismissing Petition in Part issued on February 4, 1992 in Docket Nos. CP88-171-011 and CP81-108-009, and (4) to amend its NET Rate Schedules to specify that the Fuel and Use Quantity retained or provided by Tennessee will be computed and allocated based on Tennessee's system average fuel rate per mile of pipe applied to the certificated miles of haul for a given transportation service.

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 5, 1992. Protects 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. 92-24883 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST92-5090-000, ST92-5480-000]

Texas Eastern Transmission Corporation; Self-Implementing Transactions

October 7, 1992.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-I" indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under § 284.227 of the Commission's regulations.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Lois D. Cashell,

Secretary.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST92-5090	Texas Eastern Transmission Corp.	Sonat Marketing Co...	07-31-92	G-S	30,000	N	I	07-24-92	Indef.
ST92-5091	Lone Star Gas Co.....	Northern Natural Gas Co.	08-03-92	C	40,000	N	I	07-20-92	Indef.
ST92-5092	ARKLA Energy Resources.	Henry Petroleum Corp.	08-03-92	G-S	20,000	N	I	07-20-92	Indef.
ST92-5093	Gulf Energy Pipeline Co.	Tennessee Gas Pipeline Co.	08-03-92	C	30,000	N	I	07-24-92	Indef.
ST92-5094	United Gas Pipe Line Co.	Texaco Gas Marketing Inc.	08-03-92	G-S	41,920	N	I	07-20-92	11-17-92
ST92-5095	United Gas Pipe Line Co.	Citizens Gas Supply Corp.	08-03-92	G-S	20,960	N	I	07-20-92	11-17-92
ST92-5096	United Gas Pipe Line Co.	Access Energy Corp..	08-03-92	G-S	41,920	N	I	07-20-92	11-17-92
ST92-5097	United Gas Pipe Line Co.	Nukem, Inc.....	08-03-92	G-S	104,800	N	I	07-20-92	11-17-92
ST92-5098	United Gas Pipe Line Co.	Champion International Corp.	08-03-92	G-S	2,000	N	F	07-21-92	11-18-92
ST92-5099	Gateway Pipeline Co..	Eastex Hydrocarbons, Inc.	08-03-92	G-S	50,000	N	I	07-15-92	11-12-92
ST92-5100	United Gas Pipe Line Co.	Laser Marketing Co....	08-03-92	G-S	628,800	Y	I	07-22-92	11-19-92
ST92-5101	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	08-03-92	G-S	35,000	N	F	05-01-92	11-30-94
ST92-5102	Trailblazer Pipeline Co.	Bridgegas U.S.A. Inc..	08-03-92	G-S	353,000	N	I	07-12-92	Indef.
ST92-5103	East Tennessee Natural Gas Co.	Middle Tennessee Utility District.	08-04-92	G-S	3,000	N	F	07-23-92	Indef.
ST92-5104	Northwest Pipeline Corp.	ANR Pipeline Co.....	08-04-92	G	10,000	N	I	07-08-92	Indef.
ST92-5105	Florida Gas Transmission Co.	Farmland Hydro, L.P..	08-05-92	G-S	1,169	N	I	08-01-92	Indef.
ST92-5106	United Gas Pipe Line Co.	Laser Marketing Co....	08-05-92	G-S	10,480	Y	I	07-22-92	11-19-92
ST92-5107	Sea Robin Pipeline Co.	Sonat Marketing Co...	08-05-92	G-S	19,000	N	I	08-01-92	08-31-92
ST92-5108	Sea Robin Pipeline Co.	ARCO Natural Gas Marketing.	08-05-92	G-S	10,000	N	I	07-01-92	06-30-92
ST92-5109	Southern Natural Gas Co.	Yuma Gas Corp.....	08-05-92	G-S	100,000	N	I	07-14-92	Indef.
ST92-5110	Transcontinental Gas P/L Corp.	American Central Gas Cos., Inc.	08-05-92	G-S	10,365	N	I	07-11-92	Indef.
ST92-5111	Transcontinental Gas P/L Corp.	Virginia Natural Gas Co.	08-05-92	B	400,000	N	I	07-10-92	Indef.
ST92-5112	Florida Gas Transmission Co.	City of Starke.....	08-06-92	G-S	850	N	F	07-17-92	Indef.
ST92-5113	Tennessee Gas Pipeline Co.	East Ohio Gas Co.....	08-06-92	B	322,603	N	I	07-06-92	Indef.
ST92-5114	ARKLA Energy Resources.	Mississippi River Trans. Corp.	08-06-92	G-S	60,000	Y	F	03-01-92	Indef.
ST92-5115	Florida Gas Transmission Co.	City of Starke.....	08-06-92	G-S	445	N	I	07-17-92	Indef.
ST92-5116	Florida Gas Transmission Co.	City of Starke.....	08-06-92	G-S	200	N	F	07-17-92	Indef.
ST92-5117	Lone Star Gas Co.....	Mississippi River Trans. Corp.	08-06-92	G-S	100,000	N	I	07-07-92	Indef.
ST92-5118	CNG Transmission Co.	Phillips Gas Pipeline Co.	08-06-92	C	30,000	N	I	07-09-92	Indef.
ST92-5119	Tennessee Gas Pipeline Co.	Direct Gas Supply Corp.	08-07-92	G-S	51,550	N	I	07-07-92	Indef.
ST92-5120	Tennessee Gas Pipeline Co.	Virginia Natural Gas, Inc.	08-07-92	G-S	40,000	N	I	07-16-92	Indef.
ST92-5121	Channel Industries Gas Co.	Florida Gas Transmission Co.	08-07-92	C	150,000	N	I	07-22-92	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-5122	Florida Gas Transmission Co.	Kissimmee Utility Authority.	08-07-92	G-S	629	N	I	07-17-92	Indef.
ST92-5123	Florida Gas Transmission Co.	Kissimmee Utility Authority.	08-07-92	G-S	3,742	N	F	07-17-92	Indef.
ST92-5124	Louisiana Resources P/L Co. L.P.	Texas Eastern Transmission Co.	08-07-92	C	50,000	N	I	07-24-92	Indef.
ST92-5125	Louisiana Resources P/L Co. L.P.	Texas Gas Transmission.	08-07-92	C	100,000	N	I	08-01-92	Indef.
ST92-5126	Michigan Gas Storage Co.	Consumers Power Co.	08-07-92	B	20,000	Y	I	08-01-92	Indef.
ST92-5127	Consumers Power Co.	Coenergy Ventures, Inc.	08-07-92	G-HT	20,000	N	I	08-01-92	Indef.
ST92-5128	United Gas Pipe Line Co.	Midcon Marketing Corp.	08-07-92	G-S	74,198	N	F	07-20-92	11-17-92
ST92-5129	United Gas Pipe Line Co.	Tejas Hydrocarbons Co.	08-07-92	G-S	157,200	N	I	07-28-92	11-25-92
ST92-5130	Ozark Gas Transmission System.	Weiser-Brown Operating Co.	08-07-92	G-S	1,200	N	I	07-14-92	Indef.
ST92-5131	Delhi Gas Pipeline Corp.	Panhandle Eastern Pipe Line Co.	08-10-92	C	15,000	N	I	07-10-92	Indef.
ST92-5132	Delhi Gas Pipeline Corp.	El Paso Natural Gas Co.	08-10-92	C	4,000	N	I	07-15-92	Indef.
ST92-5133	Delhi Gas Pipeline Corp.	Northern Natural Gas Co.	08-10-92	C	1,500	N	I	07-28-92	Indef.
ST92-5134	Williston Basin Inter. P/L Co.	Pacific Enterprises Oil Co.	08-10-92	G-S	15,000	N	I	07-10-92	09-30-93
ST92-5135	Panhandle Eastern Pipe Line Co.	Polaris Pipeline Corp..	08-10-92	G-S	20,000	N	I	07-10-92	Indef.
ST92-5136	ONG Transmission Co.	Phillips Gas Pipeline Co.	08-10-92	C	50,000	N	I	07-23-92	Indef.
ST92-5137	ONG Transmission Co.	ARKLA Energy Resources.	08-10-92	C	25,000	N	I	07-22-92	Indef.
ST92-5138	Gas Co. Of New Mexico.	Kaiser-Francis Oil Co.	08-10-92	G-HT	1,000	N	I	07-15-92	04-30-95
ST92-5139	Tennessee Gas Pipeline Co.	Western Gas Marketing USA Limited.	08-10-92	G-S	450,000	N	I	07-09-92	12-40-01
ST92-5140	Florida Gas Transmission Co.	City of Gainesville	08-10-92	B	12,130	N	F	07-17-92	Indef.
ST92-5141	Florida Gas Transmission Co.	Gainesville Regional Utilities.	08-10-92	G-S	5,814	N	I	07-17-92	Indef.
ST92-5142	Columbia Gas Transmission Corp.	Tivis Newsom.....	08-10-92	G-S	1,820	N	F	08-01-92	Indef.
ST92-5143	Columbia Gas Transmission Corp.	Base Petroleum, Inc...	08-10-92	G-S	70	N	F	08-01-92	Indef.
ST92-5144	Columbia Gas Transmission Corp.	Volunteer Energy Corp.	08-10-92	G-S	150	N	F	08-01-92	10-31-93
ST92-5145	Columbia Gas Transmission Corp.	C.D. & G. Development Co.	08-10-92	G-S	1,477	N	F	08-01-92	Indef.
ST92-5146	Columbia Gas Transmission Corp.	Westvaco Corp.....	08-10-92	G-S	500	N	I	08-01-92	Indef.
ST92-5147	Channel Industries Gas Co.	The Pipeline Co.....	08-11-92	C	75,000	N	I	08-01-92	Indef.
ST92-5148	Tennessee Gas Pipleine Co..	Texaco Gas Marketing, Inc..	08-11-92	G-S	200,000	N	I	08-01-92	Indef.
ST92-5149	Tennessee Gas Pipeline Co.	North Penn Gas Co ...	08-11-92	B	1,800	N	F	08-02-92	Indef.
ST92-5150	Tennessee Gas Pipeline Co.	City of Loudon	08-11-92	G-S	1,531	N	F	08-01-92	Indef.
ST92-5151	Tennessee Gas Pipeline Co.	Valley Gas Co.....	08-11-92	B	60,000	N	I	07-22-92	Indef.
ST92-5152	Tennessee Gas Pipeline Co.	Corning Natural Gas Corp.	08-11-92	G-S	5,956	N	F	08-01-92	Indef.
ST92-5153	Florida Gas Transmission Co.	City of Vero Beach.....	08-11-92	G-S	6,080	N	F	07-17-92	Indef.
ST92-5154	Florida Gas Transmission Co.	City of Vero Beach.....	08-11-92	G-S	1,555	N	I	07-17-92	Indef.
ST92-5155	Equitrans Inc.....	KCS Energy Marketing Exchange, Inc.	08-11-92	G-S	15,181	N	I	08-01-92	Indef.
ST92-5156	Equitrans Inc.....	Access Energy Corp..	08-11-92	G-S	3,175	N	I	07-22-92	Indef.
ST92-5157	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	08-11-92	G-S	15,000	N	F	04-01-92	03-31-94
ST92-5158	Columbia Gulf Transmission Co.	Exxon Corp	08-11-92	G-S	250,000	N	I	07-24-92	Indef.
ST92-5159	Columbia Gulf Transmission Co.	Enron Gs Marketing Inc.	08-11-92	G-S	130,000	N	I	07-24-92	Indef.
ST92-5160	Columbia Gulf Transmission Co.	Texaco Gas Marketing, Inc.	08-11-92	G-S	200,000	N	I	07-15-92	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-5161	Columbia Gulf Transmission Co.	AGF, Inc.	08-11-92	G-S	20,000	N	I	07-15-92	Indef.
ST92-5162	Columbia Gulf Transmission Co.	Shell Offshore, Inc	08-11-92	G-S	52,000	N	I	07-15-92	Indef.
ST92-5163	Channel Industries Gas Co.	Natural Gas P/L Co. of America.	08-12-92	C	100,000	N	I	07-25-92	Indef.
ST92-5164	Channel Insustries Gas Co.	Northern ntural Gas Gas Co.	08-11-92	C	60,000	N	I	07-14-92	Indef.
ST92-5165	Channel Industries Gas Co.	Transcontinental Gas P/L Corp.	08-11-92	C	60,000	N	I	07-14-92	Indef.
ST92-5166	Texas Eastern Transmission Corp.	Energy Development Corp.	08-13-92	G-S	600,000	N	I	07-28-92	Indef.
ST92-5167	Algonoquin Gas Transmission Co.	Boston Gas Co	08-13-92	G-S	150,000	N	I	08-01-92	Indef.
ST92-5168	Algonquin Gas Transmission Co.	Vesta Energy Co	08-1-92	G-S	130,000	N	I	08-04-92	Indef.
ST92-5169	Algonquin Gas Transmission Co.	Access Energy Corp	08-13-92	G-S	100,000	N	I	08-03-92	Indef.
ST92-5170	Natural Gas P/L Co. of America.	Gasmark, LTD	08-13-92	G-S	100,000	N	I	07-21-92	Indef.
ST92-5171	Natural Gas P/L Co. of America.	Unigas Energy, Inc	08-13-92	G-S	250,000	N	I	05-01-92	Indef.
ST92-5172	Natural Gas P/L Co. of America.	O & R Energy, Inc	08-13-92	G-S	50,000	N	I	07-16-92	Indef.
ST92-5173	Tennessee Gas Pipeline Co.	Arco Natural Gas Marketing Inc.	08-13-92	G-S	500,000	N	I	08-01-92	Indef.
ST92-5174	Tennessee Gas Pipeline Co.	Tejas Hydrocarbons Co.	08-13-92	G-S	55,000	N	I	08-01-92	Indef.
ST92-5175	Tennessee Gas Pipeline Co.	Colonial Gas Co	08-13-92	B	25,000	N	I	08-01-92	Indef.
ST92-5176	Tennessee Gas Pipeline Co.	Chattangooa Gas Co.	08-13-92	B	13,775	N	F	08-01-92	Indef.
ST92-5177	Tennessee Gas Pipeline Co.	North Penn Gas Co	08-13-92	B	219	N	F	08-04-92	Indef.
ST92-5178	Tennessee Gas Pipeline Co.	New York State Elect. & Gas Corp.	08-13-92	G-S	41,348	N	F	08-01-92	Indef.
ST92-5179	Tennessee Gas Pipeline Co.	Knox Utilities Board	08-13-92	G-S	5,102	N	F	08-01-92	Indef.
ST92-5180	United Gas Pipe Line Co.	Desoto Pipeline Co, Inc.	08-13-92	G-S	7,860	N	I	08-03-92	12-01-92
ST92-5181	United Gas Pipe Line Co.	Texican Natural Gas Co.	08-13-92	G-S	5,000	N	I	08-01-92	11-29-92
ST92-5182	United Gas Pipe Line Co.	Midcon Marketing Corp.	08-13-92	G-S	10,000	N	I	08-4-92	12-02-92
ST92-5183	United Gas Pipe Line Co.	Unigas Energy, Inc	08-13-92	G-S	50,000	N	I	08-01-92	11-29-92
ST92-5184	United Gas Pipe Line Co.	Plains Marketing & Transportation.	08-13-92	G-S	15,000	N	I	08-01-92	11-29-92
ST92-5185	United Gas Pipe Line Co.	Canadian Occidential of Calif., Inc.	08-13-92	G-S	524,000	N	I	07-31-92	11-28-92
ST92-5186	United Gas Pipe Line Co.	Lone Star Gas Co. of Texas, Inc.	08-13-92	G-S	5,764	N	I	08-03-92	12-01-92
ST92-5187	United Gas Pipe Line Co.	Enarmax, DIV. of Nukem, Inc.	08-13-92	G-S	104,800	N	I	08-04-92	12-02-92
ST92-5188	United Gas Pipe Line Co.	Enmark Gas Corp	08-13-92	G-S	24,209	N	I	08-03-92	12-01-92
ST92-5189	United Gas Pipe Line Co.	Cedar Gas Co	08-13-92	G-S	116,747	N	I	08-03-92	12-01-92
ST92-5190	Transcontinental Gas P/L Corp.	Neste OY	08-13-92	G-S	300,000	N	I	07-18-92	Indef.
ST92-5191	Transcontinental Gas P/L Corp.	O & R Energy, Inc	08-13-92	G-S	500,000	N	I	07-17-92	Indef.
ST92-5192	Transcontinental Gas P/L Corp.	Virginia Electric and Power Co.	08-13-92	G-S	60,000	N	I	07-25-92	Indef.
ST92-5193	Transcontinental Gas P/L Corp.	Delmarva Power and Light Co.	08-13-92	G-S	100,000	N	I	07-24-92	Indef.
ST92-5194	Transcontinental Gas P/L Corp.	BP Gas, Inc	08-13-92	B	170,000	N	I	07-14-92	Indef.
ST92-5195	Northwest Pipeline Corp.	Gas Co. of New Mexico.	08-13-92	G-S	100,000	N	I	02-15-92	Indef.
ST92-5196	Natural Gas P/L Co. of America.	Citizens Gas Supply Corp.	08-14-92	G-S	50,000	N	I	07-15-92	Indef.
ST92-5197	Natural Gas P/L Co. of America.	O& R Energy, Inc	08-14-92	G-S	20,000	N	I	07-22-92	Indef.
ST92-5198	K N Energy, Inc	Vesta Energy Co	08-14-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-5199	Texas Gas Transmission Corp.	Excel Gas Marketing, Inc.	08-14-92	G-S	150,000	N	I	08-01-92	Indef.
ST92-5200	Texas Gas Transmission Corp.	Woodward Marketing, Ing.	08-14-92	G-S	50,000	N	I	08-01-92	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-5201	Texas Gas Transmission Corp.	EDC Marketing Co	08-14-92	G-S	40,000	N	I	08-01-92	Indef
ST92-5202	Texas Gas Transmission Corp.	Hadson Gas Systems, Inc.	08-14-92	G-S	100,000	N	I	08-01-92	Indef
ST92-5203	Northern Natural Gas Co.	Continental Natural Gas, Inc.	08-14-92	G-S	32,000	N	F/I	08-01-92	Indef
ST92-5204	Northern Natural Gas Co.	Entrade Corp	08-08-14-92	G-S	150,000	N	F/I	07-10-92	Indef
ST92-5205	Northern Natural Gas Co.	GPM Gas Corp	08-14-92	G-S	100,000	N	F/I	07-11-92	Indef.
ST92-5206	Northern Natural Gas Co.	Aquila Energy Marketing Corp.	08-14-92	G-S	100,000	N	F/I	07-01-92	Indef
ST92-5207	Northern Natural Gas Co.	O & R Energy, Inc	08-14-92	G-S	20,000	N	F/I	07-01-92	Indef.
ST92-5208	Northern Natural Gas Co.	Enron Gas Processing Co.	08-14-92	G-S	20,000	N	I	07-01-92	Indef.
ST92-5209	Transwestern Pipeline Co.	Border Resources, Inc.	08-14-92	G-S	60,000	N	I	08-01-92	Indef.
ST92-5210	Transwestern Pipeline Co.	Oryx Gas Marketing L.P.	08-14-92	G-S	30,000	N	I	08-01-92	Indef.
ST92-5211	Transwestern Pipeline Co.	Hadson Gas Systems, Inc.	08-14-92	G-S	100,000	N	I	08-01-92	Indef.
ST92-5212	Transwestern Pipeline Co.	Anthem Energy Co., L.P.	08-14-92	G-S	100,000	N	I	08-01-92	Indef.
ST92-5213	Transwestern Pipeline Co.	Amarillo Natural Gas, Inc.	08-14-92	G-S	3,500	N	I	08-04-92	Indef.
ST92-5214	Gas Gathering Corp	Oxy USA, Inc	08-14-92	G-S	1,000	N	I	08-01-92	Indef.
ST92-5215	Gas Gathering Corp	Nasser Oil & Gas, Inc.	08-14-92	G-S	2,000	N	I	09-01-92	Indef.
ST92-5216	Gas Gathering Corp	Tesla Resources, Inc.	08-14-92	G-S	2,000	N	I	08-01-92	Indef.
ST92-5217	Colorado Interstate Gas Co.	Snyder Gas Marketing, Inc.	08-14-92	G-S	10,000	N	I	07-23-92	Indef.
ST92-5218	Transtexas Pipeline	Natural Gas P/L Co. of America.	08-17-92	C	6,000	N	I	07-18-92	Indef.
ST92-5219	K N Energy, Inc	Oxy USA, Inc	08-17-92	G-S	20,000	N	I	07-01-92	Indef.
ST92-5222	Tennessee Gas Pipeline Co.	Woodward Marketing, Inc.	08-17-92	G-S	200,000	N	I	08-02-92	Indef.
ST92-5223	Tennessee Gas Pipeline Co.	Pennsylvania & Southern Gas Co.	08-17-92	G-S	1,500	N	I	08-01-92	Indef.
ST92-5224	Panhandle Eastern Pipe Line Co.	Central Illinois Public Service Co.	08-17-92	B	15,000	N	I	07-18-92	Indef.
ST92-5225	Panhandle Eastern Pipe Line Co.	ANR Pipeline Co	08-17-92	G	100	N	I	07-01-92	Indef.
ST92-5226	Panhandle Eastern Pipe Line Co.	Panhandle Trading Co.	08-17-92	G-S	100,000	N	I	07-25-92	Indef.
ST92-5227	Florida Gas Transmission Co.	Orlando Utilities Commission.	08-17-92	G-S	17,808	N	I	07-20-92	Indef.
ST92-5228	Florida Gas Transmission Co.	City of Lakeland	08-17-92	G-S	6,225	N	I	07-17-92	Indef.
ST92-5229	Northwest Pipeline Corp.	Robert L. Bayless	08-17-92	G-S	8,000	N	I	04-01-92	Indef.
ST92-5230	El Paso Natural Gas Co.	Continental Natural Gas, Inc.	08-08-92	G-S	20,000	N	I	07-28-92	Indef.
ST92-5231	El Paso Natural Gas Co.	Mobil Natural Gas Inc.	08-18-92	G-S	103,000	N	I	07-29-92	Indef.
ST92-5232	El Paso Natural Gas Co.	Exoko Gas Technologices, Inc.	08-18-92	G-S	1,004	N	I	08-06-92	Indef.
ST92-5233	El Paso Natural Gas Co.	Conoco Inc	08-18-92	G-S	51,500	N	I	08-01-92	Indef.
ST92-5234	Pacific Gas Transmission Co.	Brymore Energy Limited.	08-18-92	G-S	200,000	N	I	07-16-92	Indef.
ST92-5235	Pacific Gas Transmission Co.	BC Gas, Inc	08-18-92	G-S	63,000	N	I	08-06-92	Indef.
ST92-5236	Tennessee Gas Pipeline Co.	O & R Energy, Inc	08-18-92	G-S	300,000	N	I	08-07-92	Indef.
ST92-5237	Tennessee Gas Pipeline Co.	Coastal Gas Marketing Co.	08-18-92	G-S	300,000	N	I	08-08-92	Indef
ST92-5238	Tennessee Gas Pipeline Co.	Seagull Marketing Services Inc.	08-18-92	G-S	250,000	N	I	08-01-92	Indef.
ST92-5239	Tennessee Gas Pipeline Co.	Colonial Gas Co	08-18-92	B	15,000	N	I	08-01-92	Indef.
ST92-5240	Tennessee Gas Pipeline Co.	Ford Motor Co	08-18-92	G-S	100,000	N	I	08-01-92	Indef.
ST92-5241	Trunkline Gas Co	Hadson Gas Systems, Inc.	08-18-92	G-S	100,000	N	I	07-27-92	Indef.
ST92-5242	Trunkline Gas Co	North Canadian Marketing Corp.	08-18-92	G-S	150,000	N	I	07-24-92	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-5243	Trailblazer Pipeline Co.	O & R Energy, Inc	08-18-92	G-S	50,000	N	I	08-06-92	Indef.
ST92-5244	Tennessee Gas Pipeline Co.	Louis Dreyfus Energy Corp.	08-19-92	G-S	100,000	N	I	08-01-92	Indef.
ST92-5245	Tennessee Gas Pipeline Co.	Superior Natural Gas Corp.	08-19-92	G-S	40,000	N	I	08-01-92	Indef.
ST92-5246	Tennessee Gas Pipeline Co.	American Central Gas Marketing Co.	08-19-92	G-S	200,000	N	I	08-01-92	Indef.
ST92-5247	Arkansas Oklahoma Gas Corp.	Ozark Gas Transmission System.	08-19-92	G-HT	2,500	N	I	07-20-92	Indef.
ST92-5248	Mississippi River Trans Corp.	TXG Gas Marketing Co.	08-19-92	G-S	50,000	N	I	08-01-92	Indef.
ST92-5249	Mississippi River Trans Corp.	Arkla Energy Marketing Co.	08-19-92	G-S	8,000	N	I	08-01-92	Indef.
ST92-5250	Northern Natural Gas Co.	Lone Star Gas Co	08-19-92	B	50,000	N	F/I	07-21-92	Indef.
ST92-5251	Northern Natural Gas Co.	Lone Star Gas Co	08-19-92	B	100,000	N	F/I	07-20-92	Indef.
ST92-5252	Northern Natural Gas Co.	Northern States Power Co.	08-19-92	B	50,000	N	F/I	07-24-92	03-31-93
ST92-5253	Northern Natural Gas Co.	Enron Gas Marketing, Inc.	08-19-92	G-S	220,000	A	F/I	07-18-92	Indef.
ST92-5254	Northern Natural Gas Co.	Iowa-Illinois Gas and Electric Co.	08-19-92	B	40,000	N	F/I	07-15-92	05-31-93
ST92-5255	Florida Gas Transmission Co.	City Gas Co of Florida.	08-19-92	G-S	200	N	F	07-23-92	Indef.
ST92-5256	Forida Gas Transmission Co.	City Gas Co of Florida.	08-19-92	G-S	750	N	F	07-23-92	Indef.
ST92-5257	Natural Gas P/L Co of America.	Coast Energy Group Inc.	08-19-92	G-S	30,000	N	I	08-02-92	Indef.
ST92-5258	Natural Gas P/L Co of America.	Access Energy Corp	08-19-92	G-S	100,000	N	I	08-07-92	Indef.
ST92-5259	Natural Gas P/L Co of America.	Premier Gas Co	08-19-92	G-S	50,000	N	I	08-01-92	Indef.
ST92-5260	Natural Gas P/L Co of America.	Crosstex Pipeline Co	08-19-92	G-S	80,000	N	I	07-29-92	Indef.
ST92-5261	Northwest Pipeline Corp.	BC Gas Inc	08-19-92	G-S	106,000	N	I	08-01-92	Indef.
ST92-5262	Williams Natural Gas Co.	KPL, Western Resources Co.	08-19-92	G-S	500,000	N	I	07-15-92	Indef.
ST92-5263	Northern Natural Gas Co.	Enron Gas Marketing, Inc.	08-20-92	G-S	130,000	N	F/I	07-24-92	Indef.
ST92-5264	Northern Natural Gas Co.	Premier Gas Co	08-20-92	G-S	50,000	N	F/I	08-01-92	Indef.
ST92-5265	Northern Natural Gas Co.	American Central Gas Marketing Co.	08-20-92	G-S	5,000	N	F/I	08-01-92	Indef.
ST92-5266	Florida Gas Transmission Co.	City Gas Co of Florida.	08-20-92	G-S	23,873	N	F	07-22-92	Indef.
ST92-5267	Tennessee Gas Pipeline Co.	Conoco, Inc	08-20-92	G-S	5,361	N	I	08-01-92	Indef.
ST92-5268	Tennessee Gas Pipeline Co.	Mobil Natural Gas, Inc.	08-20-92	G-S	3,875	N	I	08-01-92	Indef.
ST92-5269	Tennessee Gas Pipeline Co.	Scana Hydrocarbons, Inc.	08-20-92	G-S	50,000	N	I	08-01-92	Indef.
ST92-5270	Williston Basin Inter P/L Co.	Koch Hydrocarbon Co.	08-20-92	G-S	176,610	A	I	07-20-92	05-01-93
ST92-5271	Williston Basin Inter P/L Co.	Koch Hydrocarbon Co.	08-20-92	G-S	195,075	A	I	07-20-92	09-30-92
ST92-5272	Columbia Gulf Transmission Co.	Northwestern Mutual Life Insur. Co.	08-20-92	G-S	5,000	N	I	08-01-92	Indef.
ST92-5273	Columbia Gulf Transmission Co.	Prior Intrastate Corp	08-20-92	G-S	60,000	N	I	08-01-92	Indef.
ST92-5274	Columbia Gulf Transmission Co.	Eastex Gas Transmission Co.	08-20-92	G-S	60,000	N	I	08-05-92	Indef.
ST92-5275	Columbia Gulf Transmission Co.	Coast Energy Group, Inc.	08-20-92	G-S	370,000	N	I	08-01-92	Indef.
ST92-5276	Columbia Gulf Transmission Co.	ANR Pipeline Co	08-20-92	G	11,657	N	I	08-01-92	Indef.
ST92-5277	United Gas Pipe Line Co.	Polaris Pipeline Corp	08-20-92	G-S	20,960	N	I	08-10-92	12-08-92
ST92-5278	United Gas Pipe Line Co.	Exxon Corp	08-20-92	G-S	104,800	N	I	08-04-92	12-02-92
ST92-5279	United Gas Pipe Line Co.	Peoples Gas System, Inc.	08-20-92	G-S	100,000	N	I	08-01-92	11-29-92
ST92-5280	United Gas Pipe Line Co.	Nerco Oil & Gas, Inc	08-20-92	G-S	50,000	N	I	08-13-92	12-11-92
ST92-5281	United Gas Pipe Line Co.	Rally Pipeline Corp	08-20-92	G-S	59,736	N	I	08-07-92	12-05-92

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-5282	Gastel Pipeline System Inc.	Amerada Hess Corp	08-20-92	G-S	23,200	N	I	08-06-92	Indef.
ST92-5283	Transcontinental Gas P/L Corp.	Oryx Gas Marketing L.P.	08-20-92	B	1,542,450	N	I	04-04-90	10-09-90
ST92-5284	Northern Natural Gas Co.	Kaztex Energy Management, Inc.	08-20-92	G-S	75,000	N	F/I	08-01-92	Indef.
ST92-5285	Northern Natural Gas Co.	Helmerich & Payne Energy Services.	08-20-92	G-S	50,000	N	F/I	08-01-92	Indef.
ST92-5286	Tennessee Gas Pipeline Co.	Entrade Corp	08-20-92	G-S	1,310,000	N	I	08-01-92	Indef.
ST92-5287	East Tennessee Natural Gas Co.	Knoxville Utilities Board.	08-20-92	G-S	5,000	N	F	08-01-92	Indef.
ST92-5288	East Tennessee Natural Gas Co.	Chattanooga Gas Co.	08-20-92	G-S	13,500	N	F	08-01-92	Indef.
ST92-5289	East Tennessee Natural Gas Co.	City of Loudon	08-20-92	G-S	1,500	N	F	08-01-92	Indef.
ST92-5290	Northern Natural Gas Co.	Total Minatome Corp.	08-21-92	G-S	20,000	N	F/I	08-01-92	Indef.
ST92-5291	Northern Natural Gas Co.	Dekalb Energy Co	08-21-92	G-S	125,000	N	F/I	08-01-92	Indef.
ST92-5292	Northern Natural Gas Co.	Northwestern Public Service Co.	08-21-92	B	250	N	F	08-01-92	10-31-92
ST92-5293	Williston Basin Inter. P/L Co.	Cenex	08-21-92	G-S	2,270	A	I	07-23-92	12-31-92
ST92-5294	K N Energy, Inc	Williston Basin Inter. P/L Co.	08-21-92	G-S	10,000	N	I	04-04-92	Indef.
ST92-5298	El Paso Natural Gas Co.	Amoco Energy Trading Corp.	08-21-92	G-S	103,000	N	I	08-12-92	Indef.
ST92-5299	United Gas Pipe Line Co.	Continental Natural Gas, Inc.	08-21-92	G-S	8,384	N	I	08-12-92	12-10-92
ST92-5300	United Gas Pipe Line Co.	CNG Transmission Corp.	08-21-92	G-S	200,000	N	I	08-15-92	12-13-92
ST92-5301	CNG Transmission Corp.	Gas Access Systems, Inc.	08-21-92	G-S	10,000	N	I	06-10-92	Indef.
ST92-5302	CNG Transmission Corp.	Brooklyn Interstate NGC.	08-21-92	G-S	80,000	N	I	06-01-92	Indef.
ST92-5303	CNG Transmission Corp.	Equitable Resources Marketing.	08-21-92	G-S	10,000	N	I	07-03-92	Indef.
ST92-5304	CNG Transmission Corp.	Volunteer Energy Corp.	08-21-92	G-S	14,775	N	I	06-20-92	Indef.
ST92-5305	CNG Transmission Corp.	Equitable Resources Marketing.	08-21-92	G-S	10,000	N	I	07-07-92	Indef.
ST92-5306	CNG Transmission Corp.	Ashland Exploration, Inc.	08-21-92	G-S	17,000	N	I	07-01-92	Indef.
ST92-5307	CNG Transmission Corp.	Centran Corp	08-21-92	G-S	1,500	N	I	07-21-92	Indef.
ST92-5308	CNG Transmission Corp.	O & R Energy, Inc.	08-21-92	G-S	100,000	N	I	07-22-92	Indef.
ST92-5309	CNG Transmission Corp.	Polaris Pipeline Corp.	08-21-92	G-S	25,000	N	I	07-22-92	Indef.
ST92-5310	CNG Transmission Corp.	Coastal Gas Marketing.	08-21-92	G-S	100,000	N	I	07-22-92	Indef.
ST92-5311	Tennessee Gas Pipeline Co.	Riverside Pipeline Co.	08-21-92	G-S	545	N	I	08-15-92	Indef.
ST92-5312	Tennessee Gas Pipeline Co.	Mississippi Marketing, Inc.	08-21-92	G-S	102	N	I	08-01-92	Indef.
ST92-5313	Tennessee Gas Pipeline Co.	Equitable Resources Marketing Co.	08-21-92	G-S	307,000	N	I	08-01-92	Indef.
ST92-5314	Tennessee Gas Pipeline Co.	Taylor Energy Co.	08-21-92	G-S	655	N	I	08-01-92	Indef.
ST92-5315	Tennessee Gas Pipeline Co.	Union Oil Co. of California.	08-21-92	G-S	408	N	I	08-01-92	Indef.
ST92-5316	Sipco Gas Transmission Corp.	Natural Gas P/L Co. of America.	08-24-92	C	100,000	N	I	06-01-92	Indef.
ST92-5317	Questar Pipeline Co	Chevron U.S.A. Inc.	08-24-92	G-S	86,400	N	I	07-24-92	Indef.
ST92-5318	Panhandle Eastern Pipe Line Co.	Gas Energy Development.	08-24-92	G-S	50,000	N	I	08-01-92	Indef.
ST92-5319	Panhandle Eastern Pipe Line Co.	Apostolic Christian Home of Eureka.	08-24-92	G-S	35	N	I	08-04-92	Indef.
ST92-5320	Panhandle Eastern Pipe Line Co.	Entrade Corp	08-24-92	G-S	300,000	N	I	08-06-92	Indef.
ST92-5321	Panhandle Eastern Pipe Line Co.	Ford Motor Co	08-24-92	G-S	10,268	N	I	08-01-92	Indef.
ST92-5322	Tennessee Gas Pipeline Co.	Diamond Shamrock Offshore Partners.	08-24-92	G-S	1,758	N	I	08-01-92	Indef.
ST92-5323	Tennessee Gas Pipeline Co.	Clinton Gas Transmission, Inc.	08-24-92	G-S	2,000	N	I	08-01-92	Indef.
ST92-5324	Tennessee Gas Pipeline Co.	Oxy USA Inc	08-24-92	G-S	2,994	N	I	08-01-92	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-5325	Tennessee Gas Pipeline Co.	Arco Natural Gas Marketing, Inc.	08-24-92	G-S	4,933	N	I	08-01-92	Indef.
ST92-5326	Tennessee Gas Pipeline Co.	Exxon Corp	08-24-92	G-S	6,482	N	I	08-01-92	Indef.
ST92-5327	Channel Industries Gas Co.	Transcontinental Gas P/L Corp.	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5328	Channel Industries Gas Co.	Trunkline Gas Co	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5329	Channel Industries Gas Co.	THC Pipeline Co	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5330	Channel Industries Gas Co.	Natural Gas P/L Co of America.	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5331	Channel Industries Gas Co.	Sabine Pipe Line Co	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5332	Channel Industries Gas Co.	United Gas Pipe Line Co.	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5333	Channel Industries Gas Co.	Texas Eastern Transmission Corp.	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5334	Channel Industries Gas Co.	Tennessee Gas Pipeline Co.	08-24-92	C	325,000	A	I	07-28-92	Indef.
ST92-5335	Tejas GAS Corp	Mississippi River Transmission Co.	08-24-92	C	10,000	N	I	07-01-92	Indef.
ST92-5336	Northern Natural Gas Co.	Eastex Hydrocarbons Inc.	08-24-92	G-S	100,000	N	I	07-30-92	07-29-94
ST92-5337	Northern Natural Gas Co.	Cibola Corp	08-24-92	G-S	50,000	N	I	07-30-92	07-29-94
ST92-5338	Northern Natural Gas Co.	Natural Gas Clearinghouse, Ltd.	08-24-92	G-S	250,000	N	F/I	07-01-92	06-30-93
ST92-5339	Williston Basin Inter. P/L Co.	Hiland Partners	08-21-92	G-S	76,250	A	I	07-21-92	05-31-93
ST92-5340	Tennessee Gas P/L Co.	Sun Operating L.P	08-25-92	G-S	293	N	I	08-01-92	Indef.
ST92-5341	Tennessee Gas P/L Co.	Enron Gas Marketing, Inc.	08-25-92	G-S	1,066	N	I	08-01-92	Indef.
ST92-5342	Tennessee Gas P/L Co.	Fina Natural Gas Co	08-25-92	G-S	154	N	I	08-01-92	Indef.
ST92-5343	Tennessee Gas P/L Co.	UMC Petroleum Corp.	08-25-92	G-S	199	N	I	08-07-92	Indef.
ST92-5344	Tennessee Gas P/L Co.	Superior Natural Gas Corp.	08-25-92	G-S	613	N	I	08-01-92	Indef.
ST92-5345	Tennessee Gas P/L Co.	Greenhill Petroleum Corp.	08-25-92	G-S	1,945	N	I	08-01-92	Indef.
ST92-5346	Tennessee Gas P/L Co.	Vantage Point Energy, Inc.	08-25-92	G-S	72	N	I	08-15-92	Indef.
ST92-5347	Tennessee Gas P/L Co.	Nerco Oil & Gas, Inc.	08-25-92	G-S	1,750	N	I	08-01-92	Indef.
ST92-5348	Tennessee Gas P/L Co.	Amoco Energy Trading Corp.	08-25-92	G-S	3,873	N	I	08-02-92	Indef.
ST92-5349	Webb/Duval Gatherers.	Tennessee Gas Transmission Co.	08-25-92	C	1,000	N	I	06-01-92	Indef.
ST92-5350	Tennessee Gas P/L Co.	Natural Gas Clearinghouse.	08-25-92	G-S	854	N	I	08-01-92	Indef.
ST92-5351	Trunkline Gas Co	Louisiana Land & Exploration Co.	08-25-92	G-S	20,000	N	I	05-01-92	Indef.
ST92-5352	Trunkline Gas Co	Brymore Energy Ltd	08-25-92	G-S	30,000	N	I	06-16-92	Indef.
ST92-5353	Trunkline Gas Co	North Canadian Marketing Corp.	08-25-92	G-S	150,000	N	I	07-28-92	Indef.
ST92-5354	Natural Gas P/L Co. of America.	LTV Steel, Inc	08-25-92	B	30,000	N	F	07-01-92	05-31-95
ST92-5356	Florida Gas Transmission Co.	Cargill Fertilizer, Inc	08-25-92	G-S	975	N	F	08-01-92	Indef.
ST92-5357	Florida Gas Transmission Co.	Lake Apopka Natural Gas District.	08-25-92	G-S	5,108	N	F	08-01-92	Indef.
ST92-5358	Kern River Gas Transmission Co.	Polaris Pipeline Corp.	08-25-92	G-S	100,000	N	I	08-12-92	Indef.
ST92-5359	Kern River Gas Transmission Co.	Bonneville Fuels Marketing Corp.	08-25-92	G-S	40,000	N	I	08-02-92	Indef.
ST92-5360	Trunkline Gas Co	O&R Energy, Inc	08-26-92	G-S	40,000	N	I	08-02-92	Indef.
ST92-5361	Texas Eastern Transmission Corp.	Southern Connecticut Gas Co.	08-26-92	G-S	225,000	N	I	08-01-92	Indef.
ST92-5362	Texas Eastern Transmission Corp.	Marathon Oil Co	08-26-92	G-S	50,000	N	I	08-01-92	Indef.
ST92-5363	Texas Eastern Transmission Corp.	AGF Inc	08-26-92	G-S	12,000	N	I	08-01-92	Indef.
ST92-5364	Texas Eastern Transmission Corp.	Union Natural Gas Co.	08-26-92	G-S	1,000	N	I	08-01-92	Indef.
ST92-5365	Tennessee Gas Pipeline Co.	Shell Offshore Inc	08-26-92	G-S	10,736	N	I	08-01-92	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST92-5366	Tennessee Gas Pipeline Co.	Chevron USA Inc.	08-26-92	G-S	28,915	N	I	08-01-92	Indef.
ST92-5367	Tennessee Gas Pipeline Co.	Texon Corp	08-26-92	G-S	3,296	N	I	08-01-92	Indef.
ST92-5368	Tennessee Gas Pipeline Co.	Hunt Petroleum Corp.	08-26-92	G-S	1,215	N	I	08-01-92	Indef.
ST92-5369	Tennessee Gas Pipeline Co.	Calcasieu Gas Gathering System.	08-26-92	G-S	5,950	N	I	08-01-92	Indef.
ST92-5370	Tennessee Gas Pipeline Co.	FMI Hydrocarbon Co.	08-26-92	G-S	1,042	N	I	08-02-92	Indef.
ST92-5371	Tennessee Gas Pipeline Co.	Aviva America In	08-26-92	G-S	212	N	I	08-01-92	Indef.
ST92-5372	Tennessee Gas Pipeline Co.	Placid Oil Co	08-26-92	G-S	549	N	I	08-01-92	Indef.
ST92-5373	Panhandle Eastern Pipe Line Co.	Kerr-McGee Corp	08-26-92	G-S	5,000	N	I	08-01-92	Indef.
ST92-5374	Panhandle Eastern Pipe Line Co.	Interstate Gas Supply, Inc.	08-26-92	G-S	5,000	N	I	08-01-92	Indef.
ST92-5375	Panhandle Eastern Pipe Line Co.	Centana Energy Corp.	08-26-92	G-S	50,000	Y	I	08-01-92	Indef.
ST92-5376	Northwest Pipeline Corp.	Natural Gas Processing Co.	08-26-92	G-S	500	N	I	08-05-92	Indef.
ST92-5377	Valero Transmission, L.P.	Natural Gas P/L Co. of America.	08-27-92	C	40,000	N	I	08-01-92	Indef.
ST92-5378	Texas Eastern Transmission Corp.	Rochester Gas & Electric Corp.	08-27-92	B	99,000	N	I	08-06-92	Indef.
ST92-5379	Panhandle Eastern Pipe Line Co.	City of Pittsfield	08-27-92	G-S	2,900	N	I	08-01-92	Indef.
ST92-5380	ANR Pipeline Co	Enron Gas Marketing Inc.	08-27-92	G-S	150,000	N	I	08-01-92	Indef.
ST92-5381	ANR Pipeline Co	Woodward Marketing, Inc.	08-27-92	G-S	5,000	N	I	08-01-92	Indef.
ST92-5382	ANR Pipeline Co	Iowa Southern Utilities Co.	08-27-92	G-S	2,659	N	F	08-01-92	Indef.
ST92-5383	ANR Pipeline Co	Cincinnati Gas and Electric Co.	08-27-92	B	100,000	N	I	08-01-92	Indef.
ST92-5384	ANR Pipeline Co	Battle Creek Gas Co.	08-27-92	B	40,000	N	I	08-01-92	Indef.
ST92-5385	ANR Pipeline Co	Coastal Gas Marketing Co.	08-27-92	B	200,000	N	I	08-01-92	Indef.
ST92-5386	Channel Industries Gas Co.	Trunkline Gas Co	08-27-92	C	150,000	N	I	08-01-92	Indef.
ST92-5387	Channel Industries Gas Co.	Northern Natural Gas Co.	08-27-92	C	50,000	N	I	07-01-92	Indef.
ST92-5388	Channel Industries Gas Co.	THC Pipeline Co	08-27-92	C	50,000	Y	I	07-30-92	Indef.
ST92-5389	Channel Industries Gas Co.	Transcontinental Gas P/L Corp.	08-27-92	C	50,000	N	I	07-30-92	Indef.
ST92-5390	Channel Industries Gas Co.	Natural Gas P/L Co. of America.	08-27-92	C	75,000	N	I	08-01-92	Indef.
ST92-5391	Channel Industries Gas Co.	Florida Gas Transmission Co.	08-27-92	C	75,000	N	I	08-1-92	Indef.
ST92-5392	Channel Industries Gas Co.	Sabine Pipe Line Co.	08-27-92	C	75,000	N	I	08-01-92	Indef.
ST92-5393	Channel Industries Gas Co.	Energy Consultants, Inc.	08-27-92	G-1	10,000	N	I	08-1-92	Indef.
ST92-5394	Tennessee Gas Pipeline Co.	Newfield Exploration Co.	08-27-92	G-S	1,118	N	I	08-15-92	Indef.
ST92-5395	Tennessee Gas Pipeline Co.	American Central Gas Cos., Inc.	08-27-92	G S	393	N	I	08-16-92	Indef.
ST92-5396	Tennessee Gas Pipeline Co.	Columbia Gas Transmission Corp.	08-27-92	B	10,425	N	F	08-20-92	Indef.
ST92-5397	Natural Gas P/L Co. of America.	O & R Energy, Inc	08-27-92	G-S	50,000	N	I	08-1-92	Indef.
ST92-5398	Superior Offshore Pipeline Co.	Linder Oil Co	08-27-92	B	50,000	N	I	08-1-92	Indef.
ST92-5399	Trancontinental Gas P/L Co.	Sun Co., Inc	08-27-92	B	40,000	N	F	08-1-92	07-31-12
ST92-5400	Midwestern Gas Transmission Co.	Southern Indian Gas and Elect. Co.	08-27-92	B	50,000	N	I	07-30-92	Indef.
ST92-5401	Williston Basin Inter. P/L Co.	Union Oil Co. of California.	08-28-92	G-S	6,500	N	I	07-28-92	06-30-94
ST92-5402	United Gas Pipe Line Co.	Enmark Gas Corp.	08-28-92	G-S	47,160	N	I	08-11-92	12-09-92
ST92-5403	United Gas Pipe Line Co.	Endevco Oil & Gas Co.	08-28-92	G-S	26,200	N	I	08-17-92	12-15-92
ST92-5404	United Gas Pipe Line Co.	KCS Energy Marketing, Inc.	08-28-92	G-S	78,600	N	I	08-14-92	12-12-92
ST92-5405	United Gas Pipe Line Co.	Polaris Pipeline Corp.	08-28-92	G-S	20,960	N	I	08-17-92	12-15-92

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST92-5406	Gateway Pipeline Co ..	Midcom Marketing Corp.	08-28-92	G-S	200,200	N	I	08-20-92	12-18-92
ST92-5407	United Gas Pipe Line Co.	Hadson Gas Systems, Inc.	08-28-92	G-S	20,000	N	I	08-17-92	12-15-92
ST92-5408	United Gas Pipe Line Co.	International Paper Co.	08-28-92	G-S	104,800	N	I	08-17-92	12-15-92
ST92-5409	United Gas Pipe Line Co.	Humble Gas Systems, Inc.	08-28-92	G-S	15,720	N	I	08-11-92	12-09-92
ST92-5410	United Gas Pipe Line Co.	Aquila Energy Marketing Corp..	08-28-92	G-S	52,400	N	I	08-18-92	12-16-92
ST92-5411	El Paso Natural Gas Co.	American Hunter Exploration Ltd.	08-28-92	G-S	200,000	N	I	08-20-92	Indef
ST92-5412	El Paso Natural Gas Co.	Panhandle Trading Co.	08-28-92	G-S	154,500	N	I	08-15-92	Indef.
ST92-5413	Transok, Inc.....	Black Marlin Pipeline Co.	08-28-92	C	50,000	N	I	08-01-92	Indef.
ST92-5414	Transok, Inc.....	Williams Natural Gas Co.	08-28-92	C	60,000	N	I	07-11-92	Imdef.
ST92-5415	Transok, Inc.....	Natural Gas P/L Co. of America.	08-28-92	C	150,000	N	I	07-31-92	Indef.
ST92-5416	Transok, Inc.....	Natural Gas P/L Co. of America.	08-28-92	C	50,000	N	I	08-01-92	Indef.
ST92-5417	Transok, Inc.....	Phillips Gas Pipeline Co.	08-28-92	C	100,000	N	I	08-01-92	Indef.
ST92-5418	Transok, Inc.....	Arkla Energy Resources.	08-28-92	C	50,000	N	I	08-01-92	Indef.
ST92-5419	Transok, Inc.....	Natural Gas P/L Co. of America.	08-28-92	C	150,000	N	I	07-31-92	Indef.
ST92-5420	Transok, Inc.....	Northern Natural Gas Co.	08-28-92	C	20,000	N	I	07-31-92	Indef.
ST92-5421	Transok, Inc.....	Arkla Energy Resources.	08-28-92	C	20,000	N	I	08-01-92	Indef.
ST92-5422	Delhi Gas Pipeline Corp.	Texas Eastern Transmission Corp.	08-31-92	C	2,000	N	I	08-04-92	Indef.
ST92-5423	Delhi Gas Pipeline Corp.	Transwestern Pipeline Co.	08-31-92	C	1,500	N	I	08-01-92	Indef.
ST92-5424	Delhi Gas Pipeline Corp.	Panhandle Eastern Pipeline Co.	08-31-92	C	250,000	N	I	08-01-92	Indef.
ST92-5425	Williams Natural Gas Co.	Universal Resources Corp.	08-28-92	G-S	20,000	N	I	07-28-92	Indef.
ST92-5426	Columbia Gas Transmission Corp.	Peake Operating Co...	08-28-92	G-S	4,690	N	F	08-01-92	Indef.
ST92-5427	Columbia Gas Transmission Corp.	Manufacturers Fuel Co.	08-28-92	G-S	50,000	N	I	08-19-92	Indef.
ST92-5428	Transcontinental Gas P/L Corp.	Piedmont Natural Gas Co., Inc.	08-28-92	B	225,000	N	I	08-27-92	Indef.
ST92-5429	Transcontinental Gas P/L Corp.	United Gas Pipe Line Co.	08-28-92	G	150,000	N	I	08-21-92	Indef.
ST92-5430	High Island Offshore System.	Northern Natural Gas Co.	08-28-92	K	290,000	N	I	08-02-92	Indef.
ST92-5431	Natural Gas P/L Co. of America.	Enron Gas Marketing, Inc.	08-28-92	G-S	20,000	N	I	02-06-92	Indef.
ST92-5432	Natural Gas P/L Co. of America.	Fina Oil and Chemical Co.	08-28-92	G-S	100,000	N	I	07-20-92	Indef.
ST92-5433	Natural Gas P/L Co. of America.	Chevron U.S.A., Inc....	08-28-92	G-S	18,000	N	I	10-01-90	Indef.
ST92-5434	Natural Gas P/L Co. of America.	Phibro Energy, Inc.....	08-28-92	G-S	300,000	N	I	7-30-92	Indef.
ST92-5435	Natural Gas P/L Co. of America.	Tejas Power Corp.....	08-28-92	G-S	100,000	N	I	07-30-92	Indef.
ST92-5436	Natural Gas P/L Co. of America.	Anchor Glass Container Corp.	08-28-92	G-S	4,000	N	I	03-16-92	Indef.
ST92-5437	Natural Gas P/L Co. of America.	Phibro Energy, Inc.....	08-28-92	G-S	300,000	N	I	07-29-92	Indef.
ST92-5438	Tennessee Gas Pipeline Co.	Union Texas Petroleum Corp.	08-28-92	G-S	200,000	N	I	08-01-92	Indef.
ST92-5439	Tennessee Gas Pipeline Co.	Chautauqua Energy Marketing, Inc.	08-28-92	G-S	1,650	N	I	08-01-92	Indef.
ST92-5440	Tennessee Gas Pipeline Co.	Kerr-McGee Corp.....	08-28-92	G-S	210	N	I	08-01-92	Indef.
ST92-5441	Tennessee Gas Pipeline Co.	Pan Petroleum M.L.P.	08-28-92	G-S	1,079	N	I	08-01-92	Indef.
ST92-5442	Columbia Gas Transmission Corp.	PPG Industries, Inc	08-28-92	G-S	367	Y	F	08-01-92	Indef.
ST92-5443	Tennessee Gas Pipeline Co.	Texaco Exploration & Production.	08-28-92	G-S	6,276	N	I	08-01-92	Indef.
ST92-5444	Tennessee Gas Pipeline Co.	CNG Producing Co.....	08-28-92	G-S	1,075	N	I	08-01-92	Indef.
ST92-5445	Tennessee Gas Pipeline Co.	Louisiana Land and Exploration Co.	08-28-92	G-S	217	N	I	08-01-92	Indef.

Docket No.*	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST92-5446	Tennessee Gas Pipeline Co.	Energy Development Corp.	08-28-92	G-S	728	N	I	08-01-92	Indef.
ST92-5447	Tennessee Gas Pipeline Co.	Hope Gas, Inc.	08-28-92	G-S	5,121	N	I	08-01-92	Indef.
ST92-5448	Northern Natural Gas Co.	Tristar Gas Co	08-28-92	G-S	50,000	N	F/I	07-27-92	Indef.
ST92-5449	ANR Pipeline Co	Cincinnati Gas & Electric Co.	08-28-92	B	50,000	N	I	08-01-92	Indef.
ST92-5450	ANR Pipeline Co	Iowa Electric Light & Power Co.	08-28-92	G-S	421	N	F	08-01-92	Indef.
ST92-5451	ANR Pipeline Co	Cincinnati Gas & Electric Co.	08-28-92	B	5,000	N	I	08-13-92	Indef.
ST92-5452	ANR Pipeline Co	Cincinnati Gas & Electric Co.	08-28-92	B	5,000	N	I	08-01-92	Indef.
ST92-5453	ANR Pipeline Co	Exxon Corp	08-28-92	G-S	5,000	N	I	08-07-92	Indef.
ST92-5454	ANR Pipeline Co	Unigas Energy, Inc.	08-28-92	G-S	250,000	N	I	08-04-92	Indef.
ST92-5455	ANR Pipeline Co	Meridian Oil Trading, Inc.	08-28-92	G-S	100,000	N	I	08-01-92	Indef.
ST92-5456	Northern Natural Gas Co.	Gas Energy Development Co.	08-31-92	G-S	50,000	N	F/I	08-08-92	Indef.
ST92-5457	Northern Natural Gas Co.	Continental Natural Gas, Inc.	08-31-92	G-S	75,000	N	F/I	08-14-92	Indef.
ST92-5458	Northern Natural Gas Co.	Midwest Power Systems, Inc.	08-31-92	B	1,000,000	N	F/I	08-13-92	08-12-93
ST92-5459	Northern Natural Gas Co.	Austin Utilities	08-31-92	B	3,260	N	F/I	08-12-92	Indef.
ST92-5460	Tennessee Gas Pipeline Co.	North Atlantic Utilities, Inc.	08-31-92	G-S	10,000	N	I	08-08-92	Indef.
ST92-5461	Viking Gas Transmission Co.	Northern Minnesota Utilities.	08-31-92	B	1,301	N	F	08-01-92	Indef.
ST92-5462	ONG Transmission Co.	Arkla Energy Resources.	08-31-92	C	50,000	N	I	08-01-92	Indef.
ST92-5463	Williston Basin Inter. P/L Co.	Rainbow Gas Co	08-31-92	G-S	206,853	A	I	08-01-92	07-31-94
ST92-5464	Panhandle Eastern Pipe Line Co.	Michigan Gas Utilities Co.	08-31-92	B	1,500	N	I	08-01-92	Indef.
ST92-5465	Panhandle Eastern Pipe Line Co.	Citizens Gas Fuel Co.	08-31-92	B	10,156	N	I	08-01-92	Indef.
ST92-5466	Colorado Interstate Gas Co.	Panhandle Trading Co.	08-31-92	G-S	75,000	N	I	08-14-92	Indef.
ST92-5467	Colorado Interstate Gas Co.	Stand Energy Corp.	08-31-92	G-S	1,000	N	I	08-01-92	Indef.
ST92-5468	Colorado Interstate Gas Co.	Helmerich & Payne, Inc.	08-31-92	G-S	10,000	N	I	08-01-92	Indef.
ST92-5469	Columbia Gulf Transmission Co.	KCS Energy Marketing, Inc.	08-31-92	G-S	60,000	N	I	08-06-92	Indef.
ST92-5470	Columbia Gulf Transmission Co.	Bethlehem Steel Corp.	08-31-92	G-S	50,000	N	I	08-12-92	Indef.
ST92-5471	Columbia Gulf Transmission Co.	Amoco Production Co.	08-31-92	G-S	10,000	N	I	08-13-92	Indef.
ST92-5472	Columbia Gas Transmission Corp.	Riley & Scott Gas Co.	08-31-92	G-S	1,100	N	F	08-01-92	Indef.
ST92-5473	Northwest Pipeline Corp.	Eastex Canadian Hunter.	08-31-92	G-S	500,000	N	I	04-11-92	Indef.
ST92-5474	CNG Transmission Corp.	Virginia Electric & Power Co.	08-31-92	G-S	50,000	N	I	07-25-92	Indef.
ST92-5475	CNG Transmission Corp.	NGC Transportation, Inc.	08-31-92	G-S	100,000	N	I	06-27-92	Indef.
ST92-5476	CNG Transmission Corp.	Equitable Resources Marketing.	08-31-92	G-S	25,000	N	I	07-01-92	Indef.
ST92-5477	CNG Transmission Corp.	Interstate Gas Supply, Inc.	08-31-92	G-S	2,000	N	I	07-01-92	Indef.
ST92-5478	CNG Transmission Corp.	Doswell Ltd Partnership.	08-31-92	G-S	150,000	N	I	07-15-92	Indef.
ST92-5479	CNG Transmission Corp.	Western Gas Marketing.	08-31-92	G-S	575,000	N	I	07-17-92	Indef.
ST92-5480	CNG Transmission Corp.	Eastern American Energy.	08-31-92	G-S	13,000	N	I	07-15-92	Indef.

*Notice of transactions does not constitute a determination that filings comply with Commission Regulations in accordance with Order No. 436 (Final Rule and Notice Requesting Supplemental Comments, 50 FR 42,372, 10/10/85).

**Estimated Maximum Daily Volumes Includes Volumes Reported by the Filing Company in MMBTU, MCF and DT.

***Affilation of Reporting Company to entities involved in the transaction. A "Y" indicates affiliation, an "A" indicates Marketing Affiliation, and a "N" indicates no Affiliation.

[FR Doc. 92-24873 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-17-29-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

October 7, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on October 1, 1992 Fourth Substitute Sixth Revised Sheet No. 28 to Third Revised Volume No. 1 of its FERC Gas Tariff.

Transco states that the purpose of the filing is to track a rate change attributable to storage service purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS. The tracking filing is being made pursuant to section 4 of Transco's Rate Schedule LSS.

Appendix A attached to the filing contains an explanation of the tracking change and details regarding the computation of the proposed changed under Rate Schedule LSS.

Transco states that copies of the filing are being mailed to each of its LSS customers and interested State Commissions.

Any person desiring to be heard or to protests said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commissions' Rules and Regulations. All such motions or protests should be filed on or before October 15, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-24878 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-137-007]

Transcontinental Gas Pipe Line Corporation; Tariff Filing

October 7, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on September 30, 1992 certain revised tariff sheets to Third Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which tariff sheets are listed in Appendix A attached hereto. The proposed effective date of the revised tariff sheets is September 1, 1992.

Transco states that the purpose of the instant filing is to comply with ordering paragraph (D) of the Commission's Order issued September 17, 1992 (September 17 Order) in Docket Nos. RP92-137-000 and RP92-108-000, which order directed TGPL to file revised rates in compliance with such order within 15 days after its issuance. Such order directed TGPL to reflect a 14.45 percent rate of return on common equity, to become effective on September 1, 1992, based on a hypothetical capital structure with an equity ratio of 38.79 percent resulting in an overall after-tax rate of return of 11.33 percent.

TGPL states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties to Docket No. RP92-137. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at TGPL's main offices at 2800 Post Oak Boulevard in Houston, Texas.

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 15, 1992. 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. 92-24886 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-15-034]

Trunkline Gas Company; Proposed Changes in FERC Gas Tariff

October 7, 1992.

Take notice that Trunkline Gas Company (Trunkline) on October 1, 1992, tendered for filing revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1 as shown on appendix B attached to the filing.

Trunkline proposes that these revised tariff sheets become effective November 1, 1992.

Trunkline states that these revised tariff sheets are being filed in compliance with the Commission's Order Accepting Settlement And Authorizing Abandonment dated August 28, 1992 in Docket No. CP92-596-000, the Commission's Order Accepting Settlements and Granting Motion dated August 28, 1992 in Docket Nos. RP87-15-003, *et al.* and § 154.41 of the Commission's Regulations. Specifically, the revised tariff sheets reflect (1) changes to the Index of Purchasers for the abandonment of sales service to Panhandle Eastern Pipe Line Company (Panhandle) and Mississippi River Transmission (MRT); and, (2) cancellation of sections 22 and 23 of the General Terms and Conditions.

Trunkline states that a copy of this filing is being served on all jurisdictional customers applicable state regulatory agencies and parties to the above-referenced proceeding.

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 15, 1992. 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. 92-24880 Filed 10-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-165-003]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

October 7, 1992

Take notice that Trunkline Gas Company (Trunkline) on October 1, 1992, tendered for filing revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1 as shown on appendix A attached to the filing.

Trunkline proposes that these revised tariff sheets become effective November 1, 1992.

Trunkline states that these revised tariff sheets are being filed in

compliance with § 154.41 of the Commission's Regulations and the Commission's Orders dated May 29, 1992 and August 7, 1992 in Docket Nos. RP92–165–000, *et. al.*, and Commission Order dated August 28, 1992 in Docket Nos. RP87–15–000, *et al.* Specifically, the revised tariff sheets reflect: (1) The continued functionalization as gathering of the certain costs which it had proposed to be refunctionalized as transmission costs; (2) the recording of $6,672,881.68 of unrecovered depreciation expenses as an unrecovered plant cost in rate base and the associated rate change effective November 1, 1992 consistent with Article VII, section 9 of the July 15, 1992 Settlement in Docket No. RP87–15–000, *et al.*; (3) the elimination, effective November 1, 1992, of Trunkline LNG Minimum Bill Costs from the demand component of sales rates, consistent with the provisions of Article VII, section 1(a) of the Settlement referred to above; (4) the elimination of § 6.8(c) from Trunkline's generally applicable transportation rate schedules PT-Firm and PT-Interruptible, consistent with the provisions of Article VII, section 1(b) of the same Settlement; (5) end-of-test period contract demand levels, in compliance with Ordering Paragraph (D) of the Commission Order dated May 29, 1992; (6) the Annual Charge Adjustment (ACA) filed with the Commission in Docket No. TM93–1–30–000; and (7) an adjustment for the most recent PGA filing in Docket No. TA92–1–30–000, to be effective September 1, 1992.

Trunkline states that a copy of this filing is being served on all jurisdictional customers, applicable state regulatory agencies and parties to the above-referenced proceeding.

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 Rule of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 15, 1992. 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. 92–24881 Filed 10–13–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92–89–NG]

BP Gas Inc.; Order Granting Blanket Authorization to Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting BP Gas Inc. blanket authorization to export to Mexico up to 50 Bcf of natural gas over a two-year term, beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday though Friday, except Federal holidays.

Issued in Washington, DC, October 7, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–24918 Filed 10–13–92; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. 92–124–NG and 92–125–NG]

Santana Resources, Limited Chevron Natural Gas Services, Inc.; Applications for Blanket Authorization to Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of applications.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that the applications identified in the attached appendix were filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. The applicants request blanket authorization either to import natural gas from Canada or export natural gas to Mexico on a short-term or spot market basis over a period of two years beginning on the date of the first delivery. The proposed imports and exports would take place at any point on the borders of the United States that would not require the construction of new pipeline facilities.

Copies of these applications are available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, at the below address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. You are invited to submit protests, motions to intervene, notices of intervention, and written comments with respect to either docket listed above.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in the specific docket at the address listed below no later than 4:30 p.m., eastern time, November 13, 1992.

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 20595.

FOR FURTHER INFORMATION CONTACT: P. J. Fleming, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4819.

SUPPLEMENTARY INFORMATION: Notice of these applications is consolidated for administrative reasons, but DOE is conducting separate proceedings and will issue individual decisions on each application. Any protestor, intervenor, commenter, or other respondent who wishes to participate in more than one docket must submit a separate filing in each docket. DOE's decision on an application for import authority is made consistent with 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 domestic need for the gas and any other issue 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, especially those that may oppose any of these applications, should comment on these issues as they relate to the requested import/export authority. The applicants assert that their proposals are in the public interest. Parties opposing any of these applications 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 these

proceedings 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 a proceeding and to have written comments considered as the basis for any decision on an application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to an application will not serve to make the protestant a party to that proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on an application. The filing of an intervention with respect to a particular docket will not serve to make the person a party in any other docket. 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 to the specific docket with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on an 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.

Issued in Washington, DC, on October 7, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Program, Office of Fossil Energy.

Appendix

Filing date	Applicant name and docket No.	Two-year maximum		Comments
		Import volume	Export volume	
9/28/92	Santana Resources, Limited (92-124-NG)		200 Bcf	Exports to Mexico.
9/28/92	Chevron Natural Gas Services, Inc. (92-125-NG)	73 Bcf		Imports from Canada.

[FR Doc. 92-24917 Filed 10-13-92; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Corrections to Rate Order No. WAPA-53 Salt Lake City Area Integrated Projects

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice is given of the corrections to Rate Order No. WAPA-53 (WAPA-53) for firm power from the Salt Lake City Area Integrated Projects (Integrated Projects).

SUMMARY: Notice is given of the confirmation and approval by the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) of the Department of Energy (DOE) of corrections to WAPA-53 and the Corrected Rate Schedule SLIP-F4, placing an increased firm power rate for capacity and energy from the Integrated Projects of the Western Area Power Administration (Western) into effect on an interim basis. The corrected provisional rate will become effective October 1, 1992, and remain in effect on an interim basis until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places it in effect on a final basis or until it is replaced by another rate.

In the order issued April 14, 1992, in Docket No. EF92-5171-000, 59 FERC ¶61,058 confirmed and approved Rate Schedule SLIP-F3 for firm power from the Integrated Projects. This firm power rate expired on September 30, 1992.

WAPA-53 of the Integrated Projects firm power and the Colorado River Storage Project firm transmission was approved and placed into effect on an interim basis effective October 1, 1992, by the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) on August 10, 1992. Announcement of this approval (WAPA-53) was published in the **Federal Register** on August 17, 1992 (57 FR 36981).

Subsequent to this announcement, Western recognized that it inadvertently omitted some computational steps in assessing net purchased power costs and has prepared corrections to WAPA-53. Western is submitting these corrections, as well as corrected statements A through E, corrections to a document in the official Record of Decision and a corrected Description of Record to FERC. The computational omissions affect only the firm power rate. The firm transmission rate remains unchanged.

The corrected provisional firm power rate contains a decrease in the energy charge of 0.20 mills per kilowatthour (mills/kWh), resulting in a total firm energy charge of 8.40 mills/kWh, and a decrease in the capacity charge of $0.09 per kilowatt per month ($/kW/month), resulting in a total firm capacity charge of $3.54/kW/month. The combined rate (calculated at a 58.2-percent load factor) decreases from 17.14 mills/kWh to 16.72 mills/kWh. This represents a 3.2-percent increase, over the previously existing FERC approved rate. It will generate $10 million less revenue over the ratesetting period than the provisional rate now before FERC.

The corrected provisional rate adjustment for Integrated Projects firm power is to be placed into effect on an interim basis effective October 1, 1992, the same effective date as the provisional rate SLIP-F4 filed with FERC in Docket No. EF92-5172-000. The corrected provisional firm power rate

will earn approximately $3.3 million annually in additional power revenue from what would be earned by the previously existing rate for FY 1993–96.

The October 1, 1992, effective date still will be adequate to meet Western's revenue requirements, since firm power bills are computed the month following the delivery of service. In other words, the firm power bill for service delivered in October will be issued in November.

Western has developed this corrected firm power rate in accordance with Reclamation law; Department of Energy financial reporting policies, procedures, and methodology (DOE RA 6120.2 [September 20, 1979]); and the procedures for public participation in rate adjustments and extensions found at 10 CFR part 903 (1985).

A comparison of previously existing, provisional, and corrected provisional firm rates follows:

	Previously existing rate	Provisional rate	Corrected provisional rate
Integrated Projects Firm Power Service Rate Schedule	SLIP-F3	SLIP-F4	SLIP-F4
Firm Capacity Charge ($/kW/month)	$3.44	$3.63	$3.54
Firm Energy Charge (mills/kWh)	8.10	8.60	8.40
Combined Rate (mills/kWh)	16.20	17.14	16.72

DATES: Corrected Rate Schedule SLIP–4 will be placed into effect on an interim basis on October 1, 1992, and will remain effective until FERC confirms, approves, and places the rate schedule in effect on a final basis for a 4-year period, or until the rate schedule is superseded.

FOR FURTHER INFORMATION CONTACT:

Mr. Lloyd Greiner, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, (801) 524–6372.

Ms. Deborah Linke, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401–3398, (303) 231–1535.

Mr. Joel Bladow, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G–061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0001, (202) 586–5581.

SUPPLEMENTARY INFORMATION: In order to estimate the financial impact of the interim releases at Glen Canyon Dam on the firm power rate, a base-case scenario (without the interim release constraints) and a change-case scenario (with the interim release constraints) were simulated and compared. The difference between the net annual purchased power expenses of the base and change cases constituted the incremental purchased power expense due to interim release constraints. For the rate order power repayment study (PRS), these expenses were simulated on an hourly basis for the years 1992, 1994, and 1996. The years 1993 and 1995 and 1997–2004 were estimated using regression analysis based on the hourly simulations for 1992, 1994, and 1996.

The interim release constraints at Glen Canyon Dam cause the following three conditions to exist with regard to marketing of power from the Integrated Projects:

1. There is a daily shift of available hydrogeneration from the on-peak period to the off-peak period, and a resultant increase in on-peak purchases in dry water years to satisfy contractual on-peak firm energy obligations.

2. Due to the ramping restrictions and daily fluctuation limits of interim release constraints, hourly generation during some hours would be in excess of that required to meet firm contract loads.

3. There is a corresponding amount of energy available that must be sold during off-peak periods due to minimum water release requirements.

Western analyzed the impact that the above three conditions would have on the calculations of the purchased power costs. Western concluded that the computations inadvertently omitted some of the potential revenues associated with "forced" non-firm energy sales.

In the document called the "Interim Release Expense Analysis FY 1992–2004" (Analysis), since forced energy sales would occur at varying magnitudes and during predominantly off-peak periods, they were valued at a financial loss. Based on current market conditions, which were assumed representative of future conditions, a 5 mill/kWh loss, or the difference between on-peak sales and off-peak sales was applied to each kWh of surplus generation. In the rate order PRS, the incremental energy purchases and the "losses" from forced sales were included in total cost of interim release constraints.

Exclusion of the potential revenues associated with projected nonfirm energy sales for both the base and change cases resulted in an overstatement of the cost of interim release constraints as well as an understatement of surplus energy revenues.

After consideration of the potential magnitude of these nonfirm energy revenues, it was concluded that the estimated cost of purchased power due to interim release constraints was overestimated in the June 1992 Integrated Projects Rate Order PRS by $19.2 million during the 13-year period (1992–2004 interim release period), or about $1.5 million per year. Furthermore, this computational error underestimated nonfirm sales (in the base case) by $56.8 million, or about $4.4 million per year. This is separate from the cost of purchased power due to interim releases. The combined effect of these two corrections in the PRS was to reduce the combined rate by about .42 mills/kWh.

The corrections to the computational errors were made in columns 36 (purchased power for firming) and 40 (power purchased for interim flows) of the PRS's backup study in FY 1993 through 2004. The corrections in column 36 result in some negative numbers that need to be explained.

In the Analysis, which was part of the Record of Decision filed with FERC on August 17, 1992, only the years 1992, 1994, and 1996 were modeled for hourly load patterns. Estimates for surplus energy sales were netted out of these estimated load patterns. The resulting net purchased power expense estimates for these 3 years were expanded to the in-between years (1993 and 1995) and the outyears (1997–2004) using regression analysis. For this reason, column 36 of the rate order PRS's backup study reflects a net rather than the total cost of purchased power for firming.

To be consistent with the methodology used in the June 1992 rate order PRS's backup study, the corrections to column 36 for FY 1992–2004 pertaining to this corrected rate order package involved netting out the additional surplus sales that were not fully recognized in the rate order PRS. In FY 1996–1998, the estimate of additional surplus sales was greater than the estimated cost of net purchased power for firming. This means that the total estimate of surplus energy sales was greater than the estimate of purchased power costs for firming. This resulted in what appears in the PRS's backup study display to be negative purchased power estimates. Values put into column 36 had to do only with purchases for firming and surplus sales.

Column 40 reflects the corrected estimates for costs of purchased power due to interim release constraints. The values in column 40 represent the costs estimated to result from purchased power due to interim release constraints, while column 36 represents the net effect of firming purchases and

surplus sales which are separate from purchased power due to interim release constraints.

The previously existing rate consists of an energy charge of 8.10mills/kWh and a capacity charge of $3.44/kW/month, or a combined rate of 16.20 mills/kWh calculated at a 58.2-percent load factor. The provisional rate consists of an energy charge of 8.60 mills/kWh and a capacity charge of $3.63/kW/month, or a combined rate of 17.14 mills/kWh. The corrected proposed rate consists of an energy charge of 8.40 mills/kWh and a capacity charge of $3.54/kW/month, or a combined rate of 16.72 mills/kWh. This corrected proposed rate represents an overall increase in the combined rate of 3.2 percent over the previously existing FERC approved rate.

The corrected WAPA–53, confirming, approving, and placing the proposed Integrated Projects firm power adjustment in effect on an interim basis, is issued, and corrected Rate Schedule SLIP–F4 will be promptly submitted to FERC for confirmation and approval on a final basis.

Issued in Washington, DC, October 6, 1992.

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

DEPARTMENT OF ENERGY

ASSISTANT SECRETARY FOR CONSERVATION AND RENEWABLE ENERGY

[Corrected Rate Order No. WAPA–53]

Order Confirming, Approving, and Placing the Salt Lake City Area Integrated Projects Corrected Firm Power Service Rate Into Effect on an Interim Basis

October 6, 1992.

In the matter of: Western Area Power Administration, Rate Adjustment for Salt Lake City Area Integrated Projects.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 371 *et seq.*, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and other acts specifically applicable to the projects involved, were transferred to and vested in the Secretary of Energy (Secretary).

By Amendment No. 2 to Delegation Order No. 0204–108, published August 23, 1991 (56 FR 41835), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary); and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rate to the Federal Energy Regulatory Commission (FERC). Existing DOE procedures for public participation in power rate adjustment (10 CFR part 903) became effective on September 18, 1985 (50 FR 37835).

Acronyms and Definition

As used in this corrected rate order, Analysis is used to describe the "Interim Release Expense Analysis FY 1992–2004."

See also Acronyms as listed in Rate Order No. WAPA–53 (FR 57 36981).

Effective Date

The corrected provisional rate for firm power will become effective on an interim basis on October 1, 1992, and will be in effect pending FERC's approval on a final basis for a 4-year period through September 30, 1996, or until it is replaced by another rate.

Public Notice and Comment

See Rate Order No. WAPA–53.

Power Repayment Studies

See also Rate Order No. WAPA–53.

Previously Existing and Provisional Rates

The previously existing firm power rate was placed into effect on an interim basis on December 1, 1991 (WAPA–52) and was approved on a final basis by FERC on April 14, 1992. This expedited rate was estimated to be necessary to pay the cost of purchased power during FY 1992 due to changed interim operations at Glen Canyon Dam. The expedited rate of 16.2 mills per kilowatt hour (mills/kWh) added a combined rate increment of 1.7 mills/kWh to the 14.5 mills/kWh combined rate that had been in effect for the Salt Lake City Area Integrated Projects (Integrated Projects) since October 1, 1990.

Rate Order No. WAPA–53 (WAPA–53) of the Integrated Projects firm power rate and the Colorado River Storage Project firm transmission rate was placed into effect on an interim basis by the Assistant Secretary for Conservation and Renewable Energy, CE–1, on August 10, 1992. Announcement of this approval (WAPA–53) was published in the **Federal Register** on August 17, 1992 (FR 57 36983). This provisional rate, which was effective October 1, 1992, replaced the previously existing Integrated Projects firm power rate.

Subsequent to this announcement, Western recognized that it had inadvertently omitted some computational steps in assessing the costs of interim releases at Glen Canyon Dam. Western is submitting to FERC corrections to the rate order as well as to a document in the Record of Decision entitled "Interim Release Expense Analysis FY 1992–2004" (Analysis). Western also is submitting to FERC a corrected version of statements A through E, and a corrected Description of Record. These corrections affected only the firm power rate. The firm transmission rate remains unchanged.

The corrected provisional Integrated Projects rate order power repayment study (PRS), dated September 1992, shows that an energy charge of 8.40 mills/kWh and a capacity charge of $3.54 per kilowatt/month ($/kW/month), for a combined rate of 16.72 mills/kWh beginning October 1, 1992, will be adequate to repay project obligations in a timely manner over the long term. This is a 3.2-percent increase.

A comparison of the previously existing, provisional, and corrected provisional rates for firm power follows:

	Previously existing rate	Provisional rate	Corrected provisional rate
Integrated Projects Firm Power Service Rate Schedule	SLIP–F3	SLIP–F4	SLIP–F4
Firm Capacity Charge ($/kW/month)	$3.44	$3.63	$3.54
Firm Energy Charge (mills/kWh)	8.10	8.60	8.40
Combined Rate (mills/kWh)	16.20	17.14	16.72

Certification of Rate

Western's Administrator has certified that the corrected Integrated Projects firm power rate placed in effect on an interim basis herein is the lowest possible consistent with sound business principles.

Discussion

In order to estimate the financial impact of the interim releases at Glen Canyon Dam on the firm power rate, a base-case scenario (without the interim release constraints) and a change-care scenario (with the interim release

constraints) were simulated and compared. The difference between the net annual purchased power expenses of the base and change cases constituted the incremental purchased power expense due to interim release constraints. For the rate order PRS, these expenses were simulated on an hourly basis for the years 1992, 1994, and 1996.

The years 1993 and 1995 and 1997–2004 were estimated using regression analysis based on the hourly simulations for 1992, 1994, and 1996.

The interim release constraints at Glen Canyon Dam cause the following three conditions to exist with regard to marketing of power from the Integrated Projects:

1. There is a daily shift of available hydrogeneration from the on-peak purchases in dry water years to satisfy contractual on-peak firm energy obligations.

2. Due to the ramping restrictions and daily fluctuation limits of interim release constraints, hourly generation during some hours would be in excess of that needed to meet firm contract loads.

3. There is a corresponding amount of energy available that must be sold during off-peak periods due to minimum water release requirements.

Western analyzed the impact that the above three conditions would have on the calculations of the purchased power costs. Western concluded that the computations inadvertently omitted some of the potential revenues associated with "forced" non-firm energy sales.

In the Analysis, since forced energy sales would occur at varying magnitude and during predominantly off-peak periods, they were valued at a financial loss. Based on current market conditions, which were assumed representative of future conditions, a 5 mill/kWh loss, or the difference between on-peak sales and off-peak sales was applied to each kWh of surplus generation. In the rate order PRS, the incremental energy purchases and the "losses" from forced sales were included in the total cost of interim release constraints.

Exclusion of the potential revenues associated with projected nonfirm energy sales for both the base and change cases resulted in an overstatement of the cost of interim release constraints as well as an understatement of surplus energy revenues.

After consideration of the potential magnitude of these nonfirm energy revenues, it was concluded that the estimated cost of purchased power due to interim release constraints were overestimated in the Integrated Projects Rate Order PRS by $19.2 million during the 13-year period, or about $1.5 million per year. Furthermore, this computational error underestimated nonfirm sales (in the base case) by $56.8 million, or about $4.4 million per year which is separate from the cost of purchased power due to interim releases. The combined effect of these two corrections in the PRS was to reduce the combined provisional rate by about .42 mills/kWh.

The corrections to the computational errors were made in columns 36 (purchased power for firming) and 40 (power purchased for interim flows) of the PRS in FY 1993 through 2004. The corrections in column 36 result in some negative numbers that need to be explained.

In the Analysis, which was part of the Record of Decision filed with FERC on August 17, 1992, only the years 1992, 1994, and 1996 were modeled for hourly load patterns. Estimates for surplus energy sales were netted out of these estimated load patterns. The resulting net purchased power expense estimates for these 3 years were expanded to the in-between years (1993 and 1995) and the outyears (1997–2004) using regression analysis. For this reason, column 36 of the rate order PRS's backup study reflected a net rather than the total cost of purchased power for firming.

To be consistent with the methodology used in the June 1992 Integrated Projects Rate Order PRS's backup study, the corrections to column 36 for FY 1992–2004 pertaining to this corrected rate order package involved netting out the additional surplus sales that were not fully recognized in the rate order PRS. In FY 1996–98, the estimate of additional surplus sales was greater than the estimated cost of net purchased power for firming. This means that the total estimate of surplus energy sales was greater than the estimate of purchased power costs for firming. This resulted in what appears in the PRS's backup study display to be negative purchased power estimates. Values put into column 36 had to do only with purchases for firming and surplus sales.

Column 40 reflects the new estimates for costs of purchased power due to interim release constraints. The values in column 40 represent the costs estimated to result from purchased power due to interim release constraints, while column 36 represents the net effect of firming purchases and surplus sales which are separate from purchased power due to interim release constraints.

The previously existing rate consists of an energy charge of 8.10 mills/kWh and a capacity charge of $3.44/kW/month, or a combined rate of 16.20 mills/kWh calculated at a 58.2-percent load factor. The provisional rate consists of an energy charge of 8.60 mills/kWh and a capacity charge of $3.63/kW/month, or a combined rate of 17.14 mills/kWh. The corrected proposed rate consists of an energy charge of 8.40 mills/kWh and a capacity charge of $3.54/kW/month or a combined rate of 16.72 mills/kWh. This corrected proposed rate represents an overall increase in the combined rate of 3.2 percent over the previously existing FERC approved rate. This rate increase will result in a $3.3 million increase in annual revenues for the following 4 years (FY 1993–96) over the previously existing FERC approved rate.

The rate increase is necessary to satisfy the cost-recovery criteria set forth in DOE RA 6120.2

Statement of Revenue and Related Expenses

The following table provides a summary of revenue and expense data for the Corrected Rate Order No. WAPA–53 rate approval period FY 1993–96. It should be noted that revenue estimates for economy energy sales are much lower than projected in the PRS's supporting WAPA–45 and WAPA–52. Since the FY 1989 Integrated Projects PRS was prepared, Reclamation has implemented interim operation flow restrictions at Glen Canyon Dam. Those operations have severely restricted sales of economy energy. The restrictions are anticipated to continue into the foreseeable future.

SALT LAKE CITY AREA INTEGRATED PROJECTS COMPARISON OF 4 YEARS RATE STUDY SUMMARY (FY 1993–96) FY 1989 PRS VS. CORRECTED FY 1991 PRS

[$1,000]

	FY 1989 PRS [1] FY 1993–96	Corrected FY 1991 PRS FY 1993–96	Difference
Revenues:			
Firm Power	$364,122	$427,637	$63,515
Economy Energy	138,000	0	(138,000)
Other	50,236	36,982	(13,254)
Total Revenues	552,358	464,619	(87,739)
Revenue Distribution:			
Operations and Maintenance	140,406	177,314	36,908
Environmental	0	35,416	35,416
Purchased Power:			
Firming	9,080	21,750	12,670
Economy Energy	114,000	0	(114,000)
Interim Operations	0	9,212	9,212
Transmission Expenses	26,793	26,276	(517)
Interest	86,948	136,713	49,765
Investment Repayment [2]	160,908	41,893	(119,015)
Payments to Collbran and Rio Grande	14,223	16,045	1,822
Capitalized Expenses [3]	0	0	0
Prior-Year Adjustments	0	0	0
Total Revenue Distribution	552,358	464,619	(87,739)
Repayment:			
Payments on Deficit	0	38,614	38,614
Payments on Project Investment	0	0	0
Payments on Additions	126,991	3,231	(123,760)
Payments on Replacements	33,917	48	(33,869)
Payments on Irrigation Aid	0	0	0
Total Repayment	160,908	41,893	(119,015)
Total Investment (as of FY 1996):			
Project	678,860	622,746	(56,114)
Additions [5]	178,630	326,473	147,843
Replacements	84,171	117,078	32,907
Irrigation Aid	112,218	122,930	10,712
Total	1,053,879	1,189,227	135,348
Unpaid Investment (as of FY 1996):			
Project	205,583	230,708	25,125
Additions	18,026	246,650	228,624
Replacements [6]	0	47,777	47,777
Irrigation Aid	95,798	107,933	12,135
Total	319,407	633,068	313,661

[1] The rate order PRS for the WAPA–45 rate process produced a combined rate of 13 mills/kWh. An adder of 1.5 mills/kWh (making a total rate of 14.5 mills/kWh) was imposed for 2 years based on a cash-flow analysis. In 1991 an expedited rate process (WAPA–52), using an incremental approach, added 1.7 mills/kWh to the then existing rate of 14.5 mills making a total rate of 16.2 mills/kWh (previously existing rate). This column includes only the WAPA–45 (13 mills/kWh) PRS since rate increments added since that time were made using analyses that are not comparable to the FY 1991 PRS.
[2] Includes capitalized deficits, replacements, additions, and irrigation aid.
[3] Sum of projected Groups 8 and 9 loans.
[4] Does not include Municipal and Industrial revenues which are credited towards power's obligation to irrigation aid.
[5] The increase in the FY 1991 PRS is due to a reassignment of investments from project to additions.
[6] In the FY 1989 PRS, replacements were projected to be paid off in FY 1996.

Availability of Information

Information regarding this corrected rate adjustment, including PRSs, comments, letters, memorandums, and other supporting material made or kept by Western for the purpose of developing the power rate, is available for public review in the Salt Lake City Area Office, Western Area Power Administration, Office of the Assistant Area Manager for Power Marketing, 257 East 200 South, Suite 475, Salt Lake City, Utah 84111; Western Area Power Administration, Division of Marketing and Rates, 1627 Cole Boulevard, Golden, Colorado 80401; and Western Area Power Administration, Office of the Assistant Administrator for Washington Liaison, room 8G–061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Submission to Federal Energy Regulator Commission

The rate herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I confirm and approve on an interim basis, effective October 1, 1992, Corrected Rate Schedule SLIP–F4. The rate schedule shall remain in effect on an interim basis, pending FERC confirmation and approval of it or a substitute rate on a final basis, through September 30, 1996.

Issued in Washington, DC, October 6, 1992.

J. Michael Davis, P.E.

Assistant Secretary Conservation and Renewable Energy.

Corrected Rate Schedule SLIP-F4

UNITED STATES DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION

Salt Lake City Area Integrated Projects Arizona, Colorado, Nevada, New Mexico, Utah, Wyoming; Schedule of Rate for Firm Power Service

Effective

Beginning October 1, 1992, and extending through September 30, 1996.

Available

In the area served by the Salt Lake City Integrated Projects.

Applicable

To wholesale power customers for firm power service supplied through one meter at one point of delivery, or as otherwise established by contract.

Character

Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rate

Demand Charge: $3.54 per kilowatt of billing demand.

Energy Charge: 8.40 mills per kilowatthour.

Billing Demand: The billing demand will be the greater of (1) the highest 30-minute integrated demand measured during the month up to, but not in excess of, the delivery obligation under the power sales contract or (2) the contract rate of delivery.

Adjustment for Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

Adjustment for Power Factor

The customer will be required to maintain a power factor at all points of measurement between 95-percent lagging and 95-percent leading.

Adjustment for Purchased Power

Purpose of Adjustment: The purpose of this purchased power adjustment is to ensure that Western Area Power Administration (Western) has sufficient revenues to support firm capacity purchases made necessary because of restricted generation from Glen Canyon Dam as the result of restrictions on water releases from the dam.

Applicatility: This adjustment is applicable to those contractors who are not receiving service under an Interim Purchase Amendment to their firm power sales contract.

Adjustment: If Western finds it necessary to purchase firm capacity to replace generation lost at Glen Canyon Dam because of the above-listed restrictions, Western will, beginning on the first month that such purchase are made, include in the contractor's monthly power bill an estimate of that contractor's proportionate share of net capacity purchase costs. The cost of purchasing such capacity will be offset by the revenue that Western receives from the sale of energy, if any, associated with the purchase capacity.

In its October bill each year, Western will reconcile the previous fiscal year actual purchased power expenses and the monthly estimated costs paid by the contractor. If the contractor has paid more than its proportionate share of actual power purchase expenses, the excess amount will be shown as a credit to the contractor's October power bill. If the contractor has paid less than its proportionate share of actual power purchase expenses, Western will add such amount to the contractor's October power bill.

Notification: If Western finds it necessary to implement this adjustment, it will give a one-time notification to the contractor and the Federal Energy Regulatory Commission at least 10 days before initially adding purchased power costs to the contractor's monthly power bill.

[FR Doc. 92-24916 Filed 10-13-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4521-7]

Science Advisory Board, Ecological Processes and Effects Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that the Ecological Processes and Effect Committee (EPEC) of the Science Advisory Board of EPA will meet on October 29-30, 1992. The meeting will be held at the Howard Johnson National Airport Hotel, 2650 Jefferson Davis Highway, Arlington, VA 22202 and it is open to the public.

The Ecological Processes and Effects Committee will meet to install new members and to develop its agenda for Fiscal Year 1993. The meeting will begin at 9 a.m. on October 29 and adjourn by 5 p.m. on October 30.

For additional information concerning this meeting or to obtain an agenda, please contact Mr. Marcia Jolly, Staff Secretary, Ecological Processes and Effects Committee (EPEC), Science Advisory Board (A-101-F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Phone: (202) 260-6552; Fax (202) 260-7118. Anyone wishing to make a presentation at the meeting should forward twenty-five copies of a written statement to Ms. Jolly no later than October 20, 1992. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. Speakers should bring copies of their statements for the SAB and the audience. Seating at the meetings will be on a first come basis.

Dated: January 17, 1992.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

Editorial Note: This document was received for publication in the Office of the Federal Register on October 8, 1992.

[FR Doc. 92-24931 Filed 10-13-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4521-8]

Science Advisory Board; Drinking Water Committee Open Meeting; October 29-30, 1992

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Science Advisory Board's (SAB) Drinking Water Committee (DWC) will meet on October 29-30, 1992. The Committee will meet at a different location each day. The Committee will meet from 9 a.m. to 5 p.m. on October 29th at the Holiday Inn Hotel, 550 C Street, SW., Washington, DC. On October 30th, the Committee will meet from 9 a.m. to 1 p.m. at U.S. EPA Headquarters, Waterside Mall Conference Center, Room 3 North, 401 M Street, SW., Washington, DC 20460. The meeting is open to the public and seating is on a first-come basis.

At the meeting, the Committee will plan its Fiscal Year 1993 review schedule, receive informational briefings, and discuss issues of interest to the Committee. For details concerning this meeting, including a draft agenda, please contact Mrs. Frances Dolby, Staff Secretary, or Mr. Robert Flaak,

Assistant Staff Director, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Telephone: (202/FTS) 260–6552; FAX: (202/FTS) 260–6552.

Dated: September 29, 1992.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 92–24928 Filed 10–13–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4521–5]

Science Advisory Board; Environmental Engineering Committee Open Meeting; October 28–29, 1992

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Science Advisory Board's (SAB's) Environmental Engineering Committee (EEC), will meet on Wednesday, October 28 through Thursday, October 29, 1992. The meeting will be at the U.S. Environmental Protection Agency Headquarters; 401 M Street, SW.; Washington, DC 20460. On Wednesday, October 28, 1992 the EEC will meet in Conference Room #1 North from 9 a.m. to 12 noon. On Thursday, October 29, 1992 the EEC will meet in Conference Room #3 North starting at 8:30 a.m. and will adjourn no later than 5 p.m.

At this meeting, the EEC will (1) conduct edits and revise a working draft report on the Agency's Office of Research and Development (ORD) Underground Storage Tank (UST) Research Program, which was presented to the SAB's UST Research Subcommittee on June 29 and 30, 1992; (2) conduct edits and revise a working draft report on the Agency's ORD Indoor Air Engineering (IAE) Research Program, which was presented to the SAB's IAE Research Subcommittee on July 20 and 21, 1992; (3) complete closure edits to the SAB's draft report on the Chemical Preparedness and Prevention Office's (CEPPO's) Hydrogen Fluoride Study: Report to Congress, which was presented to the EEC on July 7 and 8, 1992; (4) receive briefings from Agency staff and discuss the timing, committee assignments and charges of the possible reviews in FY 1993, including (a) the ORD Global Climate Change Engineering (Mitigation) Research, (b) Superfund Ground Water Strategic Plan, (c) Superfund Dense Non-Aqueous Phase Liquids (DNAPL's) Program, (d) Office of Solid Waste's (OSW's) Resource Conservation and Recovery Act (RCRA) Ground Water Monitoring for Quantitative Data Quality Objectives (QDQO), (e) ORD's proposed Anticipatory Research Plan and proposed pilot, (f) ORD's numerous issue plans that are engineering-oriented, and other possible FY 1993 activities; and (g) discuss possible follow-up activities to the EEC's report on Leachability Phenomena (EPA–SAB–EEC–92–003), dated October 1991, including briefings to EPA management.

The SAB's draft reports on UST Research and IAE Research are internal drafts not yet available to the public or the Agency. However, the draft report on the Hydrogen Fluoride Study: Report to Congress will be available to interested members of the public and the Agency upon request.

The meeting is open to the public and seating will be on a first come basis. Any member of the public wishing further information, such as a proposed agenda on the meeting should contact Dr. K. Jack Kooyoomjian, Designated Federal Official, or Mrs. Diana L. Pozun, Secretary, Science Advisory Board (A101F), U.S. Environmental Protection Agency, Washington, DC 20460, at 202/260–6552. Written comments received by October 14, 1992 will be mailed to the SAB/EEC; comments received after that date will be provided to the EEC at the meeting. Written comments of any length (at least 35 copies) may be provided to the EEC up until the meeting.

Members of the public who wish to make a brief oral presentation should contact Dr. K. Jack Kooyoomjian no later than October 22, 1992. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes.

Dated: September 23, 1992.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board (A101F).

[FR Doc. 92–24929 Filed 10–13–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4521–6]

Science Advisory Board Executive Committee; October 27–28, 1992

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Science Advisory Board's (SAB's) Executive Committee, will conduct a meeting on Tuesday and Wednesday, October 27–28, 1992. The meeting will be held in the Administrator's Conference Room (W1103) at the Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. It will begin at 8:30 a.m. on the 27th and will adjourn the following day no later than 12 noon.

At this meeting, the Executive Committee will receive updates on the activities of the SAB Committees, including reports on the following topics: Estimation of exposure to volatile organic chemicals while showering; Estimation of exposure to gasoline vapors permeating through basement walls; Review of the Agency's Health Effects Research Lab's Research on Drinking Water; Drinking Water Assessment of Chlorine/Chloramines; Agency's Great Lakes Water Quality Initiative; Rationale for sediment criteria; Estimate of radiogenic cancer risk; Report to Congress on hydrogen fluoride; and Assessment of risks posed by Environmental Tobacco Smoke (ETS).

Also the Executive Committee will discuss possible joint activities with the Agency's Environmental Financial Advisory Board. They will receive an update from the Uniontown, OH (Industrial Excess Landfill) Subcommittee. Other items on the agenda include: Implementation of the Expert Panel Report on the role of science at EPA; Plans for reviewing the ORD budget and research strategies; The proposed RCRA approach to Regulatory Impact Analysis; Status of implementation of the Deputy Administrator's Risk Characterization Memo; Review of the Agency's draft Peer Review Policy; as well as updates from the SAB Staff Office.

The meeting is open to the public. Any member of the public wishing further information concerning the meeting or who wishes to submit comments should contact Dr. Donald G. Barnes, Designated Federal Official for the Executive Committee (A–101), U.S. Environmental Protection Agency, Washington, DC 20406, at (202) 260–4126 or by Fax at (202) 260–9232. Limited unreserved seating will be available at the meeting.

Dated: October 6, 1992.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92–24930 Filed 10–13–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Ageement(s) Filed; American Transit Lines, Inc., et al.

The Federal Maritime Commission hereby gives notice of the filing of the

following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–011388.

Title: Agreement for Settlement and Release of Lloyd Brasileiro Claims Relating to the Argentina/U.S. Atlantic and Gulf Pool Agreement for Pool Years 1987, 1988, 1990, 1991.

Parties: American Transport Lines, Inc., Companhia de Navegacao Lloyd Brasileiro.

Synopisis The proposed Agreement would settle disputes between the parties over revenue pool accounting payments for the years 1987—1991 under pooling Agreement Nos. 212–010386 (the Argentia/U.S. Atlantic Coast Agreement) and 212–010382 (the Argentina/U.S. Gulf Coast Agreement).

Agreement No.: 224–002289–002.

Title: California United Terminals Joint Venture.

Parties: General Steamship International, Ltd. ("GSI"), Hyundai Merchant Marine America, Inc. ("HMMA"), Kerr Terminals, Inc. ("Kerr").

Synopsis: The amendment reflects Kerr's sale of its 50 percent interest in the joint venture to GSI and HMMA.

Agreement Nos.: 224–200436–003, 224–200630–004.

Title: Port Authority of New York/New Jersey and Maher Terminals, Inc. Leasing Agreement.

Parties: The Port Authority of New York/New Jersey ("Port Authority"), Maher Terminals, Inc. ("Maher").

Synopsis: Agreement No. 224–200436–003 provides for Maher to continue leasing the lumber and forest products terminal (Maher's Tripoli Street Container Terminal) at the Port Authority, until March 31, 1993.

Agreement No. 224–200630–004 provides for Maher to use an open area adjacent to its container terminal.

Dated: October 7, 1992.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–24827 Filed 10–13–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. R–0778]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment.

SUMMARY: The Board is requesting comment on a proposal to change the opening time for the Fedwire funds transfer service from 8:30 a.m. Eastern Time (ET) to 6:30 a.m. ET, effective October 4, 1993. A 6:30 a.m. ET Fedwire funds transfer opening time would facilitate changes to the settlement practices of the futures and options markets that would reduce the risks in those markets. It would also permit a reduction in the risk associated with the settlement of foreign exchange transactions. The Board is also requesting comment on whether the Fedwire securities transfer service should open concurrently with the funds transfer service at 6:30 a.m. ET, if the earlier opening time for the funds transfer service is implemented. In addition, the Board is requesting comment on the benefits and costs to depository institutions, to their customers, and to the financial markets of further expansion of Fedwire operating hours over time.

DATES: Comments must be submitted on or before January 8, 1993.

ADDRESSES: Comments, which should refer to Docket No. R–0778, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments addressed to Mr. Wiles may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B–1122 between 9 and 5 p.m., except as provided in § 261.8 of the Board's Rules Regarding the Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: For information regarding Fedwire funds and securities transfer operating hours, contact Gayle Brett, Manager (202/452–2934), or Lisa Hoskins, Senior Financial Services Analyst (202/452–3437), Division of Reserve Bank Operations and Payment Systems. For information regarding the market needs for extended Fedwire operating hours, contact Patrick M. Parkinson, Assistant Director (202/452–3526) or Patricia White, Senior Economist (202/452–2912), Division of Research and Statistics. For the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: In April 1990, the Federal Reserve adopted uniform operating hours for the Fedwire funds and securities transfer services, effective August 1, 1990. (55 FR 18755, May 4, 1990) An 8:30 a.m. Eastern Time (ET) opening time for the funds transfer and book-entry securities transfer services was established. The Board indicated that uniform operating hours would promote competitive equity among depository institutions and increase the efficiency of financial markets. The Board also noted that the continuing evolution of the payments system and financial markets might lead to further changes in operating hours, such as opening Fedwire earlier in the day.

The Board believes that expansion of Fedwire operating hours would facilitate interbank and bank customer settlements, domestically and possibly internationally. It believes that this expansion of Fedwire hours should be undertaken incrementally, with each expansion being evaluated on its own merits.

Proposed 6:30 a.m. ET Opening Time for the Fedwire Funds Transfer Service

The Board requests comment on a proposal for an initial expansion of Fedwire operating hours by changing the opening time for the Fedwire funds transfer service from 8:30 a.m. ET to 6:30 a.m. ET, effective October 4, 1993. Domestic markets could potentially benefit from an earlier opening of Fedwire in at least two ways. First, futures clearing organizations could improve the timeliness and finality of their settlements. Second, one obstacle to an earlier daily money settlement in the options markets and, ultimately, to the harmonization of the timing of settlements across the futures and options markets would be eliminated. Recommendations have been made to improve finality and lower the volume of payment associated with settlements of transactions in these markets in forums, such as the Working Group on

Financial Markets, and in studies by regulatory agencies of periods of stock market volatility.[1] The benefits of expanding Fedwire hours thus complement efforts to enhance the safety and efficiency of settlements for financial instructions and thereby reduce risks that arise in this process. In fact, the Federal Reserve has opened Fedwire early on certain days of financial market stress.

The Working Group report highlighted the linkage between the payments system and the settlement of securities and derivative instruments. A function of clearing organizations is to manage risk, especially the risk of nonperformance by a member on its obligation. In managing this risk, these organizations require a reliable mechanism for transferring funds between themselves and their clearing members. The Chicago Mercantile Exchange and the Board of Trade Clearing Corporation, for example, currently settle transactions by 7:40 a.m. ET on the business day following a trade. These clearing entities believe that settlement prior to the opening of the next day's trading (at 8:20 a.m. ET) is an integral part of risk-management systems that ensure the integrity of their markets. In order to complete settlement, which is before the opening of Fedwire, settlement banks make commitments to the clearing organizations guaranteeing the obligations of market participants. While these commitments provide strong assurances to clearing organizations and their participants that settlement will be completed, opening Fedwire at 6:30 a.m. ET would permit final and irrevocable settlement by 7:40 a.m. ET.

This benefit of earlier operating hours would likely be realized immediately. Expansion of Fedwire operating hours was recently recommended by the Regulatory Coordination Advisory Committee of the Commodity Futures Trading Commission, and the Commission forwarded that recommendation to the Board.[2] Further, support for such a step has been expressed by several market participants, futures clearing houses, and settlement banks.

An earlier opening of Fedwire also would remove an important obstacle to an earlier daily money settlement for exchange-traded options. The Options Clearing Corporation (OCC), which clears all exchange-traded options contracts in the United States, currently conducts money settlements using Fedwire funds transfers.[3] If Fedwire were open as early as 6:30 a.m. ET and if the OCC's settlement banks made their facilities available sufficiently early, the OCC could complete its daily money settlement of the previous day's trades prior to the opening of trading in the most actively traded options contracts. As the Securities and Exchange Commission has noted, a pre-opening settlement may add certainty to the clearance and settlement process of the OCC and thereby strengthen investor confidence in the integrity of U.S. securities and options markets.[4] A pre-opening settlement at the OCC would also constitute a step in the direction of harmonizing the timing of settlements in U.S. futures and options markets, which was recommended by the Working Group on Financial Markets. However, the OCC has indicated to the staff that an earlier money settlement may not be desirable, even if Fedwire were open at 6:30 a.m. ET. In part, there is concern that its non-Chicago settlement banks would be unable to meet an earlier settlement deadline. There are also concerns that an earlier settlement would increase the OCC's risk of loss on the settlement of foreign exchange options exercises and assignments.

The proposed expanded operating hours would apply only to the origination of on-line Fedwire funds transfers (i.e., transfers sent via electronic transmission to the Federal Reserve). The proposal would not affect the current hours for originating off-line transfers. Off-line institutions and institutions that do not open for the purpose of originating funds transfers would continue to receive credit for funds transfers received to their reserve accounts; however, the Reserve Banks would not provide advices to off-line institutions of the receipt of funds transfers prior to the opening of the off-line service.

The Board requests comment on the extent to which depository institutions and their customers would incur significant additional costs if the Fedwire funds transfer opening time were changed to 6:30 a.m. ET. The Board anticipates that relatively few institutions will have a business need to open their Fedwire operations earlier than they do today. For those institutions that choose not to open their Fedwire operations earlier in the morning, the Board believes that there would be no real resource or financial cost of an earlier Fedwire opening hour.

Those institutions that choose to open their operations earlier in the day in response to an earlier Fedwire opening time may experience increased costs. The Board anticipates that institutions that act as settlement banks for the futures markets and banks that hold accounts of the clearing members may choose to open early in order to fulfill their payment obligations, and/or provide or obtain funding to cover futures settlement obligations. The settlement banks, however, may already have the necessary credit and operational staff available in the early morning hours prior to the current opening of Fedwire. To the extent that existing staff and resources can accommodate an early opening of Fedwire, cost increases for these institutions would likely be minimal.

The increase in Reserve Bank costs resulting from a 6:30 a.m. ET opening time for the origination of on-line funds transfers woul be small relative to the total costs of providing the funds transfer service. The incremental costs for additional staff and computer resources are minimal for a two-hour expansion of the Fedwire funds transfer operating day. Therefore, the Federal Reserve's price for a Fedwire funds transfer should not be materially affected by the expanded operating hours.

Fedwire Securities Transfer Service Opening Time

The Board requests comment on whether the book-entry securities transfer service opening time for on-line and off-line operations should be moved to 6:30 a.m. ET, if the funds transfer service opening time is moved to 6:30

[1] The Working Group on Financial Markets was formed by the President after the 1987 stock-market break and comprises the Secretary of the Treasury and the chairmen of the Federal Reserve Board, Commodity Futures Trading Commission, and Securities and Exchange Commission. A portion of its 1988 Interim Report of the Working Group on Financial Markets deals with clearing and settlement issues, as did reports on the 1987 stock-market break: The Commodity Futures Trading Commission, Follow-up Report on Financial Oversight of Stock Index Futures Markets During October 1987, January 6, 1988; U.S. Securities and Exchange Commission, The October 1987 Market Break, February 1988. A subsequent report by the Securities and Exchange Commission on the events of October 1989 also noted the relationship between banking facilities and settlement practices, U.S. Securities and Exchange Commission, Market Analysis of October 13 and 16, 1989, December 1990.

[2] The Advisory Committee consists primarily of futures commission merchants and their customers.

[3] Banks providing credit to OCC clearing members must notify the OCC by 9:45 a.m. ET that funds will be transferred. Funds are moved to OCC accounts at 10 a.m. and paid out by 11 a.m. The clearing organizations for the New York futures exchanges also settle with funds transfers after the opening of Fedwire.

[4] See letter to Wayne P. Luthringshausen, Chairman of the Board and Chief Executive Officer, OCC, from William Heyman, Director, Division of Trading and Markets, February 13, 1992.

a.m. ET.[5] In particular, the Board requests comment on the benefits of an earlier opening of the securities transfer service to financial market participants.

The availability of the Fedwire funds transfer service earlier in the day would likely change existing payment practices in financial markets. In the futures markets, where credit is currently extended on an unsecured (or partially secured) basis in the morning, banks may require funding of obligations at the morning settlement time. The ability to deliver securities in the early morning hours may be an important source of such funding. If the securities transfer service were open, market participants might be able to liquidate overnight investments, including reverse repurchase agreements (repos), or complete outright sales. Alternatively, collateral could be repositioned to secure extensions of credit or to deliver directly to clearing organizations to cover deficits in the original margin accounts.[6]

Opening the securities transfer service earlier, and thus permitting the earlier return of collateral and delivery of other securities transfers, would result in debits to the reserve/clearing accounts of the depository institutions receiving these securities transfers over Fedwire. With respect to the earlier return of collateral, the Board believes that the institutions to which the collateral is returned may often be the banks that clear Government securities on behalf of dealer-customers that regularly finance large inventories of Government securities overnight. The intraday financing practices of Government securities dealers are such that the clearing banks incur daylight overdrafts in their Federal Reserve accounts throughout the day, beginning in the morning with the return of repo collateral. An earlier opening of the book-entry securities service would thus lengthen the period during which the clearing banks may be in overdraft due to securities transfers. However, given the Board's action to charge for daylight overdrafts, banks, dealers, and others may attempt to control and/or shift costs associated with such overdrafts through operational and market adjustments.

The Board requests comment on the need to provide off-line book-entry securities services in the early morning hours, if the securities service opening time were moved to 6:30 a.m. ET. The Board recognizes that, if the Reserve Banks were to open the book-entry securities transfer service at 6:30 a.m. ET for both on-line and off-line securities transfers, the costs incurred by both the Reserve Banks and off-line depository institutions would increase. The incremental costs that would be incurred by the Reserve Banks would be attributable primarily to staffing for off-line transfer operations. While these costs are expected to be small relative to the total costs of the book-entry securities transfer service, the added personnel costs may result in increased Federal Reserve fees.

Conversely, if the Reserve Banks were to open only for on-line book-entry securities transfer services at 6:30 a.m. ET, institutions that access these services off-line would not be able to originate securities transfers any earlier than they can today. Incoming securities received in the early morning, however, would be automatically deposited to the receiving institution's securities account and its reserve/clearing account would be debited accordingly, regardless of whether the receiver had on-line or off-line access. In both cases, the receipt of income securities might result in daylight overdrafts in the accounts of receiving institutions and these overdrafts might be subject to Federal Reserve charges.

The Board also requests comment on the types of operational features that may be required if it adopts an earlier opening time for securities transfers. The Board recognizes that depository institutions that do not have a business need to participate in the early morning book-entry securities transfer service may want to have the capability to control or prevent the receipt of incoming transfers during the early morning hours. In the near term, however, the Federal Reserve's book-entry securities transfer systems will not be able to allow depository institutions to elect whether or not to participate during the early hours.

Against this background, the Board requests comment on the specific benefits that depository institutions would realize if the book-entry securities transfer service was opened at 6:30 a.m. ET. The Board also requests comment on the specific effects on depository institutions if the Federal Reserve Banks' off-line securities operations were not available in the early morning hours. Finally, the Board requests comment on the extent to which depository institutions and their customers would incur incremental costs if the securities transfer opening time were moved to 6:30 a.m. ET. In particular, the Board requests comment on the extent to which institutions that choose not to open their operations earlier may incur daylight overdraft charges due to the receipt of securities transfers (delivered against payment) that exceed the institutions' opening-of-business balances.

Further Expansion of Fedwire Operating Hours

The Board also requests comment on further expansion of Fedwire operating hours in the future as market needs develop, by opening Fedwire funds transfer services earlier than 6:30 a.m. ET and/or closing for Fedwire funds transfers later than the current 6:30 p.m. ET close. For example, further expansion of Fedwire funds transfer operating hours by opening earlier than 6:30 a.m. ET could facilitate efforts to control temporal risk associated with the settlement of cross-border and multi-currency transactions, such as foreign exchange transactions, while closing later than 6:30 p.m. ET could accommodate domestic market needs in western U.S. time zones.

Central banks have long been interested in mechanisms for reducing the settlement risks in the foreign exchange markets. In such settlements, for example, an entity is often exposed to the risk that it will pay out foreign currency early in the day in a foreign financial center and not receive a dollar

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[5] When the Board issued a proposal to establish uniform Fedwire operating hours (54 FR 41681, October 11, 1989), it requested comment on whether both the funds transfer and the book-entry securities transfer services should open at the same time, or whether the book-entry securities transfer service opening time should be later than that for the funds transfer service. The majority of commenters that addressed the question in the context of that proposal supported the same opening time for the funds transfer and book-entry securities transfer services.

Some commenters to the Board's proposal to establish posting procedures for measuring daylight overdrafts (56 FR 3098, January 28, 1991) expressed concern that they are unable to control the timing of incoming securities transfers, and thus would not be able to control their securities-related daylight overdrafts in a pricing environment. These commenters suggested several means to control securities-related overdrafts, including delaying the opening of the book-entry securities transfer service to allow institutional time to fund their accounts before incoming securities are delivered. Commenters suggested opening times ranging from 45 minutes to 3 hours after the opening of the funds transfer service.

[6] Under the current procedures, a clearing member with a deficit in its original margin account must provide cash to cover that deficit at the morning settlement. These funds transfers occur even though clearing members likely substitute other collateral, such as Treasury securities, later in the day. The ability to move collateral earlier in the morning would enable the direct posting of collateral to cover these obligations, and thereby reduce this portion of each morning's cash payments.

The Options Clearing Corporation also requests its settlement banks to debit clearing member accounts for cash to cover deficits at its morning settlement. Any interbank transfers involved occur after the opening of the securities and funds transfer services.

counter-payment later in the day.[7] These risks are known as "Herstatt" risks after the 1974 failure of Bankhaus Herstatt, which resulted in significant disruption to settlement practices in place at that time.

An extension of Fedwire funds transfer operating hours would expand the current overlap (or reduce the current time gaps) between payments systems for the U.S. dollar and other currencies. This would remove at least one technical barrier faced by the private sector when coordinating settlements in multiple currencies. At least in the near term, however, other barriers could remain. These include the inability to make real-time, final credit transfers in some currencies, as well as possible structural impediments to the development of deep and liquid money markets outside regular business hours. The Board requests comment on how a further expansion of Fedwire operating hours could facilitate the development of private-sector arrangements to reduce the risks in settling cross-border and multi-currency transactions. The Board also requests comment on what other changes would be needed in the United States or even internationally to support the development of these arrangements.

Some west coast depository institutions have indicated that the current 6:30 p.m. ET Fedwire funds transfer close occurs too early in their business day, and that later operating hours would facilitate payments by west coast institutions and their customers. The Board requests comment on the benefits of lengthening the Fedwire funds transfer business day by closing later than 6:30 p.m. ET and on the costs and operational effects a later closing time would have on institutions and their customers both on the west coast and in other areas of the country.

In summary, the Board requests comments on the costs and benefits to institutions and to the financial markets of further expansions of Fedwire operating hours. The Board recognizes that expansion of Fedwire operating hours may eventually result in some operating difficulties for institutions, as the time between the close of Fedwire on one day and the opening of Fedwire on the following day becomes compressed, resulting in less time for institutions to complete their customer account updates.[8] The reduction in hours between the close of Fedwire on one day and the opening of Fedwire on the following day would also reduce the time available for institutions to recover from a major operational outage.

Effect of Expanded Fedwire Operating Hours on Daylight Overdraft Measurement and Pricing

Expansion of Fedwire operating hours raises several issues related to the pricing of daylight overdrafts and the timing of the posting of nonwire transactions. The Board recently adopted a policy to charge a fee for the daily average value of daylight overdrafts in a depository institution's account. The Board also modified the method used to calculate an institution's intraday account balance. (See Docket R–0721 elsewhere in today's **Federal Register.**)

In its action, the Board indicated that the value of daily average daylight overdrafts would be calculated by dividing the sum of a depository institution's negative account balances at each one minute interval during the official Fedwire funds transfer day by the number of minutes in that day. If the official Fedwire funds transfer service hours were increased, the divisor in the equation would be increased. For example, if the scheduled opening of Fedwire were moved to 6:30 a.m. ET, the divisor would change from 600 minutes to 720 minutes. The board adopted a daylight overdraft fee equal to 60 basis points for a 24-hour day. This fee would be adjusted to reflect the number of hours the Fedwire funds transfer service is scheduled to operate. For example, the Board has adopted a phased-in annual rate of 25 basis points for a ten-hour day (60 basis points × 10/24). For a 12-hour operating day, the charge would be 30 basis points (60 basis points × 12/24).

The methodology for measuring intraday balances in accounts at the Federal Reserve would remain unchanged if the Federal Reserve adopts a 6:30 a.m. ET Fedwire opening time. Specifically, nonwire transactions that would be posted at the opening of business would continue to be posted at the scheduled opening of the Fedwire funds transfer service, which would be 6:30 a.m. ET under this proposal. There would be no change in the posting times for other transactions.

Request for Comment

The Board requests comment on its proposal to open the Fedwire funds transfer service at 6:30 a.m. ET and on the benefits and costs of an earlier opening of the securities transfer service and on further extensions of Fedwire operating hours in the future as market needs warrant. Specifically, the Board requests comments on the following:

Proposed 6:30 a.m. ET Funds Transfer Service Opening Time

1. Should the opening time for the Fedwire funds transfer service be moved to 6:30 a.m. ET?

2. Do the commenters concur with the benefits described above for opening the Fedwire funds transfer service at 6:30 a.m. ET? Are there benefits beyond those identified in this notice to expand Fedwire funds transfer operating hours at this time?

3. Would the futures and other clearing organizations seek to change their settlement procedures to require their settlement banks to settle by final payments (i.e., Fedwire funds transfers) at their current morning settlement time if the Fedwire funds transfer service were open at 6:30 a.m. ET?

4. If the Federal Reserve moved the Fedwire funds transfer opening time to 6:30 a.m. ET, would the settlement banks for the futures and other clearing organizations modify their settlement agreements to provide for settlement by final payments at or before their current morning settlement time? Would the settlement banks for futures or other clearing arrangements require clearing members to fund their accounts at the settlement banks prior to an early morning settlement time routinely, or only when volatile markets create unusually large payment obligations?

5. Do commenters envision any near term use of the Fedwire funds transfer service, directly or indirectly, to control Herstatt-type risk?

6. What would be the incremental costs for depository institutions and their customers to open the Fedwire funds transfer service at 6:30 a.m. ET?

[7] Today, dollar payments made to settle foreign exchange transactions are often settled over the Clearing House Interbank Payments System (CHIPS), which is operated by the New York Clearing House and which settles at the end of the day through an account at the Federal Reserve Bank of New York, using Fedwire.

[8] In determining the minimum amount of time institutions require between the close of one Fedwire business day and the start of the next Fedwire business day, the effect of Fedwire extensions should be taken into consideration. Today, the Federal Reserve Banks extend the scheduled Fedwire funds transfer closing time approximately four times per month at the request of depository institutions to accommodate needs to send funds transfers late in the day. The majority of these extensions are due to temporary operating problems. Occasionally, extensions are made to accommodate heavy trading in times of market stress. While the majority of these extensions are for less than one hour, extensions have been granted in excess of four hours in extreme circumstances. If the Board were to expand the Fedwire funds transfer operating hours further in the future, periodic extensions of the scheduled Fedwire closing time could result in greater operating difficulties, such as compressed account posting timeframes, for some institutions.

Please identify the types of costs involved (i.e., personnel, automation resources, etc.). Would institutions' customer accounting systems be affected?

7. If the Board were to adopt a 6:30 a.m. ET Fedwire funds transfer opening time in early 1993, would October 4, 1993 be a reasonable effective date?

Fedwire Securities Transfer Service Opening Time

8. Should the book-entry securities transfer service be opened at 6:30 a.m. ET, if the Fedwire funds transfer service opening is moved to 6:30 a.m. ET? If the securities service opening time is moved to 6:30 a.m. ET, is it necessary to provide off-line securities services during the early morning hours?

9. If the futures exchange settlement banks were to require clearing members to fund their accounts prior to the early morning settlement, to what extent would the book-entry securities transfer system need to be open to allow the clearing members to obtain the necessary funding? To what extent would clearing members fund their obligations through their opening-of-business balances, through the use of daylight overdrafts, or by obtaining funding in the money markets? Would the early opening of Fedwire lead to the development of early morning money markets? [See also Q. 18, regarding the development of money markets.]

10. What other benefits would depository institutions and/or their customers realize if the securities transfer service were opened at 6:30 a.m.?

11. What would be the incremental costs for depository institutions and their customers to open the Fedwire book-entry securities transfer service at 6:30 a.m. ET for on-line service only? For on-line and off-line services? Please identify the types of costs involved (i.e., personnel, automation resources, increased Federal Reserve daylight overdraft charges, etc.).

12. What would be the effect on institutions' intraday management of their reserve accounts of a 6:30 a.m. ET opening of the book-entry securities transfer service? To what extent would institutions incur early morning daylight overdrafts due to the receipt of securities transfers? To what extent might this be exacerbated for off-line institutions if they are unable to reverse incoming securities in the early morning hours? Would institutions or their customers generally be able to agree with the sender of the securities on the intraday timing of transfers in order to minimize or eliminate early morning overdrafts?

13. What kinds of controls, if any, would receivers of securities need to have available if the securities transfer service opened earlier in the day? Would these controls best be provided by the Federal Reserve in the Fedwire securities transfer service or otherwise? What effect might the use of receiver controls have on market behavior and efficiency? Are there other capabilities that depository institutions would require in a future Federal Reserve book-entry securities transfer system if the securities transfer opening time is moved to 6:30 a.m. ET?

14. Under the posting rules recently adopted by the Board, the Federal Reserve would post U.S. Treasury and Government Agency interest and redemption payments by 9:15 a.m. ET and deliver Treasury original issues to depository institutions beginning at 9:15 a.m. ET. Operationally, the Reserve Banks would begin releasing interest and redemption payments at the current opening time; this process should be completed prior to delivery of original issues, which would begin 45 minutes later. If the Board were to adopt a 6:30 a.m. ET opening time, would there be a need to adjust the time by which interest and redemption payments should be delivered and the corresponding time to begin delivery of original issues of Treasury securities? If so, what time would be appropriate?

15. If the Board were to adopt a 6:30 a.m. ET opening time for the Fedwire securities transfer service in early 1993, would October 4, 1993 be a reasonable effective date?

Further Expansion of Fedwire Operating hours

16. How might a further expansion of Fedwire operating hours affect the opportunities for the private sector to reduce significantly the risks of cross-border and multi-currency settlements? In particular, would it facilitate the development of a true delivery-versus-payment mechanism for foreign exchange, one in which there is assurance that the transfer of a foreign currency occurs if and only if a transfer of dollars occurs? In addressing this question, please discuss why, given the current overlap of payments system hours in the U.S. and the major European countries, such a mechanism does not exist for those currencies.

17. How early or late would Fedwire hours have to be expanded with respect to each identified market need? For example, how early would Fedwire have to open in order to create a useful overlap of payment hours between Asian, European, and U.S. time zones? Would payments systems in other countries need to be expanded as well? What other changes would be needed in the United States or internationally?

18. Are there significant structural impediments to the development of money markets with sufficient depth and liquidity in the U.S. or to the expansion of trading for same-day settlement in foreign financial centers to support, for example, settlement-related funding transactions during expanded hours?

19. Are there benefits to lengthening the Fedwire business day by closing later than today's normal closing times for book-entry securities and funds transfer? Please discuss the market needs for a later Fedwire closing time.

20. What would be the costs and operational effects of further expansion of Fedwire operating hours to depository institutions, their customers, and the financial markets? (Please discuss in the context of a scenario in which Fedwire opens significantly earlier than 6:30 a.m. ET and/or closes later than 6:30 p.m. ET.)

21. How would further expansion of Fedwire operating hours affect institutions' general ledger and customer accounting systems? Specifically, how much time would be needed in the future from the close of Fedwire to the completion of the posting of customer accounts for that day? Is there a minimum period of time required between the close of Fedwire and the opening of Fedwire on the next business day to complete customer account updates?

22. How would a further expansion of Fedwire operating hours affect institutions' ability to recover in a timely manner from a major operational outage?

23. What other effects on financial institutions' operations or on financial markets should be taken into account when considering further expansion of Fedwire operating hours?

By order of the Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wiles,

Secretary of the Board.

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[Docket No. R-0668]

Modification of the Payments System Risk Reduction Program; Daylight Overdraft Pricing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: As part of its payments system risk reduction program, the Board is adopting a policy under which Reserve Banks will charge a fee for average daily intraday overdrafts in reserve and clearing accounts. A fee of 60 basis points (annual rate) multiplied by the fraction of the day Fedwire is scheduled to operate will be phased in over three years (under current Fedwire operating hours the fee will equal 25 basis points (annual rate) when fully phased in). Reserve Banks will deduct from the gross fee an amount equal to 10 percent of qualifying capital valued at the fee for a 10-hour operating day. Fees of $25 or less in any two-week period will be waived. The intent of the fee is to induce behavior that will reduce risk and increase efficiency in the payments system.

EFFECTIVE DATE: April 14, 1994.

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director, Division of Research and Statistics (202/452–3368); Florence M. Young, Assistant Director (202/452–3955), Division of Reserve Bank Operations and Payment Systems; Oliver I. Ireland, Associate General Counsel (202/452–3625) or Stephanie Martin, Senior Attorney (202/452–3198), Legal Division; for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background on Risk Reduction Program

The Board's payments system risk reduction program is designed to reduce both direct risk to the Federal Reserve and systemic risk. Direct risk to the Federal Reserve would result if a depository institution incurred an overdraft in its reserve or clearing account at a Reserve Bank and was unable to fund the overdraft by the close of the business day. Similarly, the failure of a participant on a private large-dollar transfer network to cover a net debit could prevent the creditors of that participant from settling their own commitments and could have further repercussions in the payments system and the economy in general. The Federal Reserve has taken a number of steps to induce risk-reducing behavior by payments system participants on both Fedwire and private large-dollar networks.

In 1985, the Board established a policy of capping net intraday debits of depository institutions (50 FR 21120, May 22, 1985). The Board adopted refinements to its policy in 1987 (52 FR 29255, August 6, 1987) and 1990 (55 FR 22087, May 31, 1990). Currently, depository institutions may incur daylight overdrafts in their Federal Reserve accounts up to a maximum, or cap, that is a multiple of the institution's qualifying (risk-based) capital. The cap multiple is based on the institution's self-assessment of its own creditworthiness, credit policies, and operating controls. Since January 10, 1991, the cap has applied to total overdrafts of Federal Reserve accounts, with total overdrafts defined as combined funds overdrafts and uncollateralized overdrafts caused by book-entry securities transactions.

The Board requested comment on a proposal to price intraday Federal Reserve overdrafts in June 1989 (54 FR 26094, June 21, 1989) and has adopted the pricing proposal with minor changes, as discussed below. The pricing policy published today will be applied in conjunction with the cap policy.

Summary of Pricing Policy

The Board is adopting a new component to its payments system risk reduction program, under which Reserve Banks will charge a fee (adjusted for any future changes in scheduled Fedwire operating hours, as explained below) for average daily intraday ("daylight") overdrafts in reserve and clearing accounts. Reserve Banks will deduct from the gross fee an amount equal to 10 percent of qualifying capital valued at the fee for a 10-hour operating day. Fees of $25 or less in any two-week interval will be waived.

The overdraft fee will be 60 basis points (annual rate), quoted on the basis of a 24-hour day. To obtain the daily overdraft fee (annual rate) for the standard Fedwire operating day, the quoted 60 basis point fee will be multiplied by the fraction of a 24-hour day during which Fedwire is scheduled to operate. Under the current 10-hour Fedwire operating day the overdraft fee will equal 25 basis points (60 basis points multiplied by 10/24), the same price as originally proposed by the Board. Daylight overdraft pricing is effective April 14, 1994, six months after the October 14, 1993, effective date of the Board's new overdraft measurement procedures, published elsewhere in today's **Federal Register** (Docket No. R–0721).

The Board plans to phase in the 60 basis point fee (times an operating hour fraction) over a three-year period. On April 14, 1994, the fee will be 24 basis points, rising to 48 basis points on April 13, 1995, and 60 basis points on April 11, 1996. Under current Fedwire operating hours, these phase-in fees are equal to the proposed phase-in fees of 10, 20, and 25 basis points. A change in the length of the scheduled Fedwire operating day would not change the effective fee because the fee is applied to average overdrafts which, in turn, would be deflated by the change in the operating day. After evaluating the market's response to pricing, the Board may slow or accelerate the phase-in, cease the phase-in at a level below 60 basis points, or increase the fee above 60 basis points at the end of the phase-in or at a later date.

The fee will apply to combined funds and book-entry securities intraday overdrafts in accounts at the Federal Reserve. The average daily overdraft will be calculated by dividing the sum of the negative reserve or clearing account balances at the end of each minute of the scheduled Fedwire operating day (with credit balances set to zero) by the total number of minutes in the scheduled Fedwire operating day.

The Board has provided for a *de minimis* level of free overdrafts by incorporating a deductible into its pricing policy. The deductible is an amount equal to 10 percent of qualifying capital, i.e., that capital used by the institution in calculating its net debit cap (see the Board's comprehensive policy statement, 57 FR 40455, September 3, 1992). The gross fee for daylight overdrafts will be reduced by the amount of the deductible, valued at the daylight overdraft fee for a 10-hour operating day. The value of the deductible is kept constant at the 10-hour operating day rate and will not be affected by any changes to the scheduled Fedwire operating day.[1]

Anticipated Market Responses to Pricing

A. Funds transfers

(1) Delayed Sends

The cheapest, and hence first, reaction to daylight overdraft pricing is likely to be the delay by depository institutions and their customers of less-time-sensitive payments. Not all payments are equally time-critical. However, in the current environment of free overdrafts and generally non-binding caps, there is, at best, little incentive to differentiate among

[1] The pricing deductible is independent of the exempt-from-filing test. Depository institutions are exempt from filing for a cap if their peak overdrafts do not exceed the lesser of 20 percent of their capital or $10 million. The deductible (valued at the fee for a 10-hour operating day) is subtracted from the gross fee for *average* overdrafts. An institution could be exempt from filing for a cap but be subject to pricing because its average overdrafts were over 10 percent of its capital. It could also have to file for a cap because its peak overdrafts exceeded the lesser of 20 percent of its capital or $10 million, but be exempt from pricing because its average overdrafts were less than 10 percent of its capital.

payments and, at worst, a competition among depository institutions to send all payments with great rapidity.

The largest participants in the New York Clearing House Interbank Payments System (CHIPS) have binding debit caps on that network, yet total net debits on CHIPS have increased by only 15 percent, while the value of CHIPS payment transfers nearly doubled, during the six years ending in mid-1991. Banks that approach their caps on CHIPS delay outgoing transfers until they have received incoming transfers that reduce their CHIPS net debit position. Fedwire participants have, by and large, not found their Fedwire caps to be as binding as their CHIPS caps and, as a result, have achieved less than half the payments efficiency (the ratio of payment values to reserve balances plus overdrafts) of CHIPS participants. If, by delaying less-time-critical payments, Fedwire participants achieved an improvement in payments efficiency equal to only one-half that achieved in the last six years on CHIPS, daylight overdrafts due to Fedwire funds transfers could fall by one-third.

Some commenters were concerned about the impacts of Fedwire payment delays. These commenters believed that gridlock could result if payment system participants, in order to avoid overdraft fees, awaited incoming funds before initiating payments. In addition, commenters were concerned that a delay of payments until late in the day could overburden the system if the volume was too high to be handled within a short processing time frame.

Commenters raised similar concerns when caps were introduced in 1986 and again were reduced in 1988. Although these concerns may have some validity, there has been no empirical support for any significant change in the intraday pattern of payments for all banks taken together. The Board anticipates that banks will delay sends in some cases, but does not believe that gridlock will become a serious problem. Some payments will not be time-critical and this will be delayed, but banks will have a business incentive to avoid delays for those transfers customers believe to be time-sensitive. Thus, there should be incentive to avoid delaying all transfers and assuring that time-critical payments are initiated promptly. Moreover, depository institution counterparties would be expected to refrain from dealing whenever possible with those institutions that delayed transfers excessively in order to shift credit exposures to others. For example, CHIPS participants have been successful admonished by the New York Clearing House to distribute their transfers more evenly throughout the day in their common interest.

Some small banks, however, were concerned that they would have the economic power to resist delayed sends from larger banks and would, as a result, be relatively more disadvantaged by such practices. These concerns may be valid; however, test data from February 1988 and August 1989 indicate that the overdrafts of virtually all small banks would be modest under the proposed posting schemes and that most small banks would be exempt from both cap filing and pricing. Moreover, a large share of the transfers from larger to smaller banks involves the return of funds from federal funds and repurchase lending, the timing of which is likely to be negotiated and explicitly priced if daylight overdrafts are priced. Nonetheless, the larger banks' response to pricing could change the pattern of customer payments to smaller banks such that more small banks than anticipated incur overdrafts subject to fees.

Due to the concerns associated with shifts in the timing of payments, one trade association suggested that small banks should be exempt from pricing. Under the existing intraday pattern of payments, the deductible already exempts virtually all such institutions from pricing. Until there is evidence that delayed sends would disproportionately affect smaller banks so as to make them subject to more than *de minimis* charges, the Board does not believe such an exemption would be necessary. The Federal Reserve will monitor and evaluate the impact of pricing on small banks during the phase-in period.

(2) Shifts to CHIPS form Fedwire.

The second least costly way for larger banks to avoid Federal Reserve daylight overdraft fees would be to substitute unpriced net debits on CHIPS for priced overdrafts in reserve or clearing accounts. Such shifts substitute CHIPS payments, for which the participants absorb the direct and indirect risks of end-of-day net settlement, for Fedwire transfers, for which there is no private-sector settlement risk because the Federal Reserve guarantees final payment. CHIPS' settlement finality rules, adopted by CHIPS in 1990, provide for collateral liquidity and a loss-sharing formula that establishes claims against the collateral to assure same-day settlement. CHIPS settlement finality will minimize the increase in systemic risk that accompanies the reduction in direct Federal Reserve risk when, as expected, some Fedwire transfers shift to CHIPS.

The Board estimates that if all CHIPS participants shifted all payments to other CHIPS participants that now are sent over Fedwire, almost 10 percent of Fedwire transactions and approximately one-third of the value of Fedwire transfers could shift from Fedwire to CHIPS.[2] If the current average relationship between transfers and overdrafts continued, Federal Reserve daylight overdrafts could fall by one-third and CHIPS net debit could increase by 45 percent as a result of such shifts, assuming necessary adjustments in bilateral credit limits were acceptable to counterparties.

There are, however, three reasons to believe that the associated reduction in daylight overdrafts would be smaller than one-third. First, other market responses to pricing, such as netting, will siphon off some of the payments that might otherwise shift to CHIPS. Second, with settlement finality, CHIPS participants are unlikely to be willing to raise their bilateral credit limits for all other participants. Third, some users of payment services may insist that payments be made to them over Fedwire in order to assure immediate access to final funds.

(3) Netting

A significant proportion of daylight overdrafts do not result from third party transfers, but rather banks' funding of their own daily positions in the overnight funds and Eurodollar markets. Such loans are repaid relatively early each day and the proceeds of new loans, often from the same lender, are received later in the day, leading to intraday overdrafts in the accounts of the borrowing institution. A relatively cheap way, perhaps at a marginal cost of 10 to 15 basis points, to avoid such overdrafts is to use rollovers and continuing contracts. Instead of repayment and reborrowing each day, rollovers call for automatic renewal of the borrowed amount unless canceled at any time by either party, and continuing contracts permit the size of the loan to be changed each day, with net differences repaid or added to the loan. Only net principal amounts (if any) plus interest would be transferred daily over Fedwire or CHIPS. The Board estimates that shifts to such forms of netting could reduce daylight overdrafts by much as 85 percent.

In 1989, the Board published a policy statement on rollovers and continuing

[2] Such a shift may require increases in both bilateral credit limits and required collateral from CHIPS participants to establish a liquidity pool to support their additional settlement obligation.

contracts to reduce daylight overdrafts (54 FR 26107, June 21, 1989). This policy statement urges payment system participants to consider the uses of such techniques, after due regard to their benefits and risks. Pricing will greatly increase the incentive to rollovers and continuing contracts.

Banks that act as paying agents for commercial paper issuers typically pay investors for maturing paper before the issuing corporation has funded the bank, leading to large overdrafts. Daylight overdraft pricing should induce paying agent banks to require compensation for the overdrafts associated with commercial paper. The Depository Trust Company's book-entry commercial paper system, initiated in late 1990, contributes to reduction in some commercial paper-related overdrafts by synchronizing inflows and outflows associated with commercial paper transactions and should continue to contribute to further reductions as the system is expanded.

(4) Intraday Funds Market

Daylight overdraft pricing could ultimately lead to an intraday funds market in which borrowers and lenders transfer funds for short intervals at a market rate less than the explicit fee charged by the Federal Reserve. However, it is unlikely that such a market will develop at the outset of pricing, especially given the modest charges that the Federal Reserve will impose for daylight overdrafts. Delaying sends, shifting payments to CHIPS, and netting are relatively easy and inexpensive ways to reduce daylight overdrafts by significant amounts. In addition, a true intraday market would require a new set of controls and systems and would be relatively expensive for banks to establish operationally.

Rather than developing an intraday funds market, it is more likely that market participants will structure transactions to provide for a time-specific delivery of funds in return for a premium below the Federal Reserve's daylight overdraft charge. For example, overnight borrowers of funds could pay a premium rate for the right to repay those funds in the late afternoon of the maturity day and/or the lender could receive a premium to deliver the proceeds of the borrowing early on the day of the loan. Such transactions are significantly less complex operationally than a fully-developed intraday funds market.

B. Book-entry Securities Transfers

(1) Return of Repurchase Agreement Collateral

With book-entry securities overdrafts subject to fees, the major clearing banks, which account for approximately 90 percent of all book-entry securities overdrafts, would have a considerable incentive to adjust their book-entry securities transfers and to induce their dealer customers to do so as well. In a priced environment, about one-half of aggregate fees, before any market response, would apply to these clearing banks, whose book-entry securities overdrafts account for 90 to 100 percent of their total overdrafts. The Board expects market responses to pricing of book-entry securities overdrafts, which account for approximately 60 percent of total daylight overdrafts, to be smaller than the response to pricing of funds overdrafts. However, there are operational limits to the amount of book-entry securities netting that can be achieved, as well as limits to the rapidity with a clearing bank or its dealer customers can fund a book-entry securities transfer after receipt of the security. This resulting temporal gap will continue to contribute to book-entry securities overdrafts.

It may be possible for depository institutions to reduce book-entry securities overdrafts by modifying their practices regarding the return of repurchase agreement (RP) collateral and the rapidity with which dealers choose to redeliver securities after receipt. Dealer customers of clearing banks finance their overnight securities positions using bank loans and RPs negotiated with both bank and non-bank lenders. Under an RP, the borrowing dealer transfers U.S. Treasury and agency book-entry securities to the lending bank (or the lender's bank) late in the day and receives the return of the securities by book-entry transfer early the next day. Because funds move in the direction from the securities, overdrafts decrease at the dealer's clearing banks late in the first day and increase early the next day.

This pattern of RP collateral transfers and the associated payment flows contribute significantly to the build-up in book-entry securities overdrafts from early in the day through mid-afternoon, when institutions negotiate their overnight position financing. These delays in sends of collateral for financing purposes until late in the day, as well as those associated with intraday receipt and origination of book-entry securities transfers for the dealer's own and customer accounts, reflect operational factors. Institutions must determine the availability of securities for delivery, the amount that will be held overnight (and hence must be financed), and the methods and sources to be used in funding overnight positions. In addition, some specific issues of securities ("specials") are deliberately held until late in the day because of unusual demand and supply conditions that may cause their price to rise as the day progresses. Finally, dealers build positions during the day in order to deliver their biggest orders first; this practice reflects customers' unwillingness to accept partial deliveries and the costs to the selling dealer of failing to deliver the full order on the due date.[3] Transfer limits, discussed in the next section, have already helped reduce position-building by requiring buyers to take partial deliveries of very large orders.

(2) Adjusting the Timing of Payment

Currently, clearing banks charge their dealer customers for overnight credit extensions, but their intraday fees are based not on intraday credit extension but rather on the number of transactions processed for the dealer. An important reason for such fee schedules is that the clearing banks' own book-entry securities overdrafts are both free and, given collateral pledged at Federal Reserve Banks, virtually unconstrained. Federal Reserve pricing for book-entry securities overdrafts will likely cause clearing banks to modify their own fee schedules, probably basing their fees at least in part on the amount of daylight credit extended to each dealer by the clearing bank.[4] Such an approach could be expected to induce behavioral changes among dealers.

Dealers would be expected to try to send securities transfers earlier in the day and induce their counterparties to send them later in the day. Dealers have already shifted some originations of an earlier time as a result of both recommendations by the Federal Reserve Bank of New York and the Board's 1983 policy limiting book-entry securities transfers to $50 million. The transfer limit, in effect, requires that large deliveries be accepted in segments, thus avoiding some dealer position-building to avoid "fails". Pricing

[3] The cost of a "fail" is borne by the selling dealer and equals the day's accrued interest on the securities not delivered, plus the cost of overnight financing by the selling dealer of that part of the order remaining in the dealer's position because it was not delivered.

[4] In contrast to a bank's determination of the cause of a customer's funds overdraft, measurement of a dealer's overdraft caused by security deliveries is more straightforward.

may lead to dealer requests for further Board-mandated reductions in transfer limits, and it will certainly bring economic pressure on dealers to manage their trade comparisons more closely and to improve their inventory control to limit their use of daylight credit.

Dealers could reduce their average overdrafts by arranging for the return of RP collateral for the previous night's financing later during the day of maturity, or at least spread out over the day. Intraday book-entry securities surpluses are concentrated (over 85 percent of the total) at five banks that act as custodians for customers who do a large amount of RP lending. Dealers could offer a fee to RP lenders (and/or their banks) to delay the return of RP collateral (and thus the repayment of the overnight loan) until later in the day; such fees could also be offered for RP lending earlier in the day for those dealers that can determine their overnight financing needs and arrange their collateral earlier in the day.

(3) Netting

Clearing banks already transfer a considerable amount of book-entry securities internally across their own books, and dealers net through the Government Securities Clearing Corporation (GSCC). As with funds, pricing of book-entry securities overdrafts would create even greater incentives to net, either by shifting more transactions into the overnight netting calculation at GSCC or by developing better ways to handle collateral supporting loans to reduce repetitive intraday transfers.

GSCC will add more transactions to its net as more dealers move to full-scale "next-day" netting in the system and as GSCC begins to offer "same-day" netting services. By early 1992, only three primary dealers were not yet participating in the GSCC net for "next-day" trades. Moreover, since 1990, GSCC has been netting post-auction "when-issued" trades in Treasury notes and bonds, thereby minimizing the number of redeliveries on issuance days. GSCC is adding non-primary dealers to the system over time and believes there is still the potential for significant additional netting over its network through this addition of more dealers and the future addition of "same-day" transfers.

There may also be further opportunities for eliminating repetitive movements of collateral in the course of the daily repayment of loans that will be rebooked at the end of the day. In particular, market participants are likely to use both term RPs and open RP contracts (the latter remain outstanding until canceled by either party) more frequently when feasible. Also, institutions might net RPs with the bulk of the collateral held by the financing party on a continuing basis (i.e., only partially repay the RP each day while moving only part of the collateral). Daylight overdraft pricing would provide the incentive to expand or develop such arrangements if they entailed costs below the daylight overdraft charge.

(4) Shifts to Other Systems

In sharp contrast to a shift of funds transfers from Fedwire to CHIPS, options for shifting book-entry securities transfers from Fedwire to other systems do not currently exist. A book-entry system, by its very nature, concentrates the ownership records in one location. It is unlikely that the federal agencies would be willing to stop using the Federal Reserve as their fiscal agent for new issuance. Although GSCC can reduce overdrafts associated with next-day trades through netting, it will not be able to handle in the foreseeable future the same-day cash trades that make up the RP market that cause the bulk of the book-entry securities overdrafts.

Response to Public Comments

Application of Pricing to Total Overdrafts

Net debit caps apply to total (funds and book-entry securities) daylight overdrafts in reserve and clearing accounts because book-entry securities overdrafts present risks to Reserve Banks similar to those posed by funds overdrafts. Because of the high concentration of book-entry securities overdrafts at the major clearing banks and the disruption to the government securities market that could result if these banks had to keep their total overdrafts within their current net debit caps, depository institutions are permitted to exceed their caps because of book entry securities overdrafts, provided that all such overdrafts are collateralized.[5]

In June 1989, the Board proposed to apply pricing to total (funds and book-entry securities) overdrafts in Federal Reserve accounts. Some commenters, including the Board's Large-Dollar Payments System Advisory Group,[6] supported this aspect of the proposal, but other commenters, including clearing banks and securities dealers, opposed the application of pricing to book-entry securities overdrafts and presented three major arguments in support of their position.

First, to the extent that book-entry securities overdrafts would already be collateralized, as they would be at virtually all institutions with large book-entry securities overdrafts, the commenters viewed a Federal Reserve charge as inequitable. The commenters argued that the collateral protected the Federal Reserve against losses. Further, because there are costs associated with pledging collateral, the commenters believed that charging for overdrafts as well as requiring collateral unduly penalized book-entry securities overdrafts. Some of the commenters suggested that depository institutions should be given the choice of pledging collateral or paying an overdraft fee.

The Board notes that collateral is required for large book-entry securities overdrafts as an exception that permits clearing banks and similarly-situated institutions to exceed their caps because of the difficulty of controlling book-entry securities overdrafts.[7] Given the unusually large size of the Reserve Bank's credit exposure to clearing banks, the Board determined that collateral was prudent and necessary to secure potential discount window loans should operational or other problems make it necessary for daylight credit extensions to continue beyond the end of the day. For reasons of equity, all institutions were given the option of exempting their book-entry securities overdrafts from cap limits by posting collateral.

The collateral requirement is unlikely to be a constraint on the amount of book-entry securities overdrafts, particularly given the depository institution's option to pledge in-transit securities as collateral. With the ready availability of collateral, such a requirement provides no meaningful incentives for depository institutions or

[5] Depository institutions that exceed their caps due to book-entry securities overdrafts by frequent (more than three times in any two consecutive two-week periods) and material (more than 10 percent) amounts must collateralize all of their book-entry securities overdrafts (net of any funds credits). Other institutions have the option of exempting their book-entry securities overdrafts in whole or in part from caps by pledging collateral. Depository institutions may not exceed their caps due to funds overdrafts by pledging collateral.

[6] This informal advisory group, made up of private-sector payments system specialists, was formed by the Board in 1985 to assist in the development of the Board's payments system risk reduction program.

[7] The sender of book-entry securities receives payment from the Reserve Bank immediately, and the institution receiving the securities is charged even if it does not have sufficient funds in its reserve or clearing account at that time. The receiver has little control over the timing of the incoming transfer. In contrast, the originator of a funds transfer controls the timing, and the recipient's account is credited rather than debited.

their dealer customers to change procedures to reduce daylight overdrafts. Collateral and pricing serve two related but separate purposes. Although collateral limits Reserve Bank risk, its purpose is to make discount window loans to book-entry securities overdrafters feasible during periods of operational difficulty. Pricing is designed to create economic incentives to reduce and allocate more efficiently the use of daylight credit.

A second group of commenters argued that the institutions that would bear the cost of the fees for book-entry securities overdrafts would not be able to control the amount of the credit used and that there would be an irreducible minimum below which book-entry securities overdrafts could not decline. These commenters focused on the operational constraints that limit the ability of dealers and clearers to reduce the gap between the time securities are delivered and corresponding debits are made to the recipient's funds account and the time the recipient receives funds from its customer to pay for the securities. The commenters argued that, even with improvements in market mechanisms in response to pricing, overdraft levels would be high even at the most efficient dealers and clearers. The commenters stated that overdraft fees would be unfair given that daylight credit is necessary for the efficient operation of the government securities market.

A third group of commenters made a related argument, stating that pricing book-entry securities overdrafts would result in reduced depth in the government securities market and an associated increase in the Treasury's borrowing costs. Specifically, the commenters argued that, because dealers would bear the additional cost of book-entry securities transfers, they would be less willing to bid both for new issues and in the secondary market, and fewer dealers would be able to participate in auctions or secondary trades. For these reasons, the commenters believed that the Treasury's borrowing costs would rise.

The Board anticipates that dealers and clearers will take steps to avoid fees for book-entry securities overdrafts, as discussed previously. Nevertheless, the remaining daylight overdraft fees will fall initially on the clearing banks. The Board notes that there are significant differences in the transfer-to-overdraft ratio among the major clearing banks. The Board does not believe that these differences reflect differing operational efficiencies across the clearing banks, but rather reflect their dealer customers' varying operational procedures, controls, and trading and management strategies. All of these factors are reflected in differing lags between incoming and outgoing transfers and the duration that potential collateral is held by dealers before they authorize its release for transfer by their clearing banks.

Board staff discussions with market participants suggest that overdraft pricing will induce clearing banks first to seek additional efficiencies to avoid charges and second to focus on efforts to pass the fee on to their dealer customers. (The extent to which dealers could, in turn, pass the overdraft fee on to their customers would be limited to those cost increases passed on by the lowest-cost dealers, as any price increase would, in a competitive market, result in shifts of business away from the higher-cost to the lower-cost dealers.) With comparable efficiency in their operations, the clearing banks should be successful in their price-shifting efforts. Clearing banks might eliminate the current charge per transfer and shift to a fee structure based mainly on the extension of credit by banks to the dealers.[8] Charges to customers based on the value of the transfer would provide less incentive for dealers to reduce their overdrafts.[9]

The Board assumes that, in reducing the amounts subject to overdraft fees, dealers would incur costs up to the overdraft fee. There would be a tendency for dealers to limit certain kinds of trades on which there is virtually no profit margin, but overdraft fees would probably be too small to significantly affect the volume of dealer trading in anticipation of even modest price swings. Even if each additional transaction dollar resulted in an additional overdraft dollar, the overdraft fee would not exceed $6.94 per million dollars in trades.[10] This cost is modest relative to a small bid-ask spread of 1/64 of a percentage point, which is equal to $156.25 per million in trades.

If all dealers were equally efficient, all of the additional costs of book-entry securities overdrafts would be shifted to investors. Such costs during the August 1989 test period would have been approximately $20 to $40 million per year. If these costs were allocated over all book-entry securities transfers (approximately $100 trillion per year), investor yields would have declined by (or investors would have required a higher gross yield of) from 0.002 to 0.004 basis points. This estimate of yield decline is high, though, because there are differences in efficiencies across dealers and it is unlikely that a significant amount of the increased cost of book-entry securities transfers will be passed on to investors. Thus, the Board does not believe that pricing of book-entry securities overdrafts will significantly affect the cost of the public debt. Moreover, the Treasury will benefit (subject to adjustments in the tax liabilities of dealers and investors) in that overdraft fees will be returned to the Treasury with Federal Reserve profits.

On the other extreme, the dealers could entirely absorb the annual aggregate costs of $20 to $40 million. These costs represent approximately 2.25 to 4.5 percent of average 1990-mid-1992 estimated profits earned by primary dealers from their U.S. Treasury and agency securities activities. Although dealer profits rose sharply in 1990-mid-1992, margins earlier had been under intense pressure both from the increase in the number of dealers and the relative stability of interest rates. Even with the improvement in profits over the last two years, dealer absorption of overdraft charges would result in some profit reductions and could, at the margin, accelerate the exit of primary and other dealers. The number of primary dealers remaining, however, would remain high by historical standards. The Board would not expect more than a modest reduction in the number of primary dealers given the recent changes in primary dealer standards, and such a reduction would not be likely to have a measurable impact on the government securities market.

Thus, the Board has determined to apply pricing to total overdrafts (book-entry securities and funds). Book-entry securities overdrafts would not decline as much as funds overdrafts under a pricing regime because the amount and timing of book-entry securities overdrafts are not fully under the

[8] The banks' own overdrafts at Reserve Banks are not necessarily related to the position of individual bank customers.

[9] Pricing based on the value of the transfer could induce a reduction in churning trades and a movement to term or open contract repurchase agreements, but would provide no incentive to reduce position building to avoid fails or increase the rapidity of securities turn-arounds. Pricing by clearing banks based on overdrafts, however, would create incentives to take all of the steps.

[10] The fee of 60 basis points (annual rate) times the fraction of the day Fedwire is scheduled to operate (i.e., 25 basis points currently) is 0.0694 basis points per day ($6.94 per million of overdrafts). On average, there are approximately $3 of book-entry securities transfers for each $1 of overdraft, reducing the daily overdraft charge to 0.0231 basis points per transfer or $2.31 per million dollars of transfer.

control of the institution incurring the overdraft. Nevertheless, both forms of over draft create risks for Reserve Banks and are being used inefficiently while they are available without charge. The Board does not believe that pricing of book-entry securities overdrafts would raise the Treasury's borrowing cost in a measurable way, with increases of much less than one-tenth of a basis point. The effect of book-entry securities overdraft pricing would more likely be diffused mainly among dealers, reducing their profits somewhat, and possibly contributing to the exit of marginal dealers from an extremely competitive market.

Application of Pricing to Average Overdrafts

In its 1989 request for comment, the Board proposed to apply daylight overdraft pricing to the average level of total overdrafts. The Board proposed that overdrafts be measured at equally-spaced intervals throughout the day, with credit balances treated as zero, and that the average overdraft would be the sum of all the overdraft measurements divided by the number of intervals.

The Board's test data in its 1989 proposal used 15-minute intervals from 8:30 a.m. to 6:30 p.m. Eastern time, the current official Fedwire operating day. The 1989 proposal noted that the Federal Reserve would review the feasibility of measuring overdrafts in shorter time intervals (e.g., by second or minute) and whether the averaging period should be fixed (e.g. the hours over which Fedwire is scheduled to be open) or the actual period Fedwire is open at each Reserve Bank. In 1991, as part of its request for comment on revised overdraft measurement procedures (56 FR 3098, January 28, 1991), the Board proposed a one-minute overdraft measurement interval, measured over the official Fedwire operating day.

Under current Fedwire operating hours, the average overdraft of large institutions is approximately one-third of the peak overdraft. The Board proposed to price average, rather than peak, overdrafts to focus depository institutions' attention on the continuous management of their positions and to provide flexibility for institutions to adjust to book-entry securities overdrafts that are not under their direct control.

The commenters generally supported the use of daily averages, but some argued that intraday credit balances should be included in the average overdraft calculation to offset intraday debit balances. Some commenters stated that explicit returns should be paid on credit balances if fees were to be levied on overdrafts. However, Congress has not authorized the Board to pay interest on reserve balances. To offset debits with credit balances in calculating the average overdraft subject to pricing would provide an implicit return on positive reserve balances, which would be inconsistent with the congressional view.[11]

One commenter suggested that, to make reserve management easier in a pricing regime, the Board should liberalize its carry forward rule on excess or deficient reserve balances. Prior to September 1992, the rule restricted such carryovers into the next maintenance period to the larger of 2 percent of required operating balances or $25,000. The commenter suggested that this quantitative restriction be removed, allowing depository institutions to vary their average reserve balance in a maintenance period over an extremely wide range and to make up for the implied surpluses or deficiencies in the subsequent maintenance period.

Although the Board has not eliminated quantitative restrictions altogether, it has increased the carryover allowance to the larger of 4 percent of required operating balances or $50,000 (57 FR 38415, August 25, 1992). Eliminating quantitative restrictions would reduce considerably the predictability of overall reserve demand in any given maintenance period, thereby making it difficult for the Federal Reserve to judge the appropriate system-wide reserve supply and significantly impairing the effectiveness of monetary policy implementation. In addition, the commenter's suggestion would make it easier for depository institutions to manage their end-of-day positions (particularly on the last day of a maintenance period), but would not ease the task of managing intraday overdrafts, which would be subject to pricing.

Generally, the commenters supported the Board's proposal to measure daylight overdrafts on a minute-by-minute basis, but expressed concern regarding the costs of implementing systems to capture positions minute-by-minute. The Board believes that the number of banks that will change their internal tracking and posting systems in order to charge customers for their use of daylight credit will be relatively small. Over 90 percent of the institutions covered by the risk reduction policy will not incur daylight overdraft charges, and thus would not be likely to undertake costly system changes. A few banks may incur overdraft charges in amounts high enough to justify system changes. Although these banks would face increased operational costs, most of their system changes would be necessary regardless of the measurement interval. A shorter measurement interval improves the accuracy of daylight overdraft calculations.

The Board has adopted its 1989 proposal, as amended by its 1991 proposal, to apply pricing to average daily daylight overdrafts. The average will be calculated by dividing the sum of the negative reserve or clearing account balances at the end of each minute of the scheduled Fedwire operating day (with credit balances set to zero) by the total number of minutes in the scheduled Fedwire operating day.

Size of Overdraft Fee

The Board requested comment on a fee of 25 basis points, annual rate, to be levied on the average amount of total daylight overdrafts in excess of the deductible, phased in over three years—10, 20, and 25 basis points, respectively, in each year. The proposed fee would be charged only on business days. The Board stated that it planned to reserve the right to (1) terminate the phase-in before application of the full 25 basis points, or (2) continue the phase-in to a level in excess of 25 basis points, depending on its assessment of the impact of pricing.

Most commenters did not oppose the size of the fee, and a small number believed the fee was too low to have a significant impact or to eliminate the subsidy inherent in daylight overdrafts. The Board believes that even a low daylight overdraft price can have a significant impact because depository institutions' costs of avoiding the fee appear to be modest. Thus, the Board believes the proposed fee is consistent with the objective of inducing risk-reducing changes without slowing down payment flows or drastically increasing the public's cost of making payments. The Board recognizes that the fee is probably not sufficient to eliminate all of the subsidy resulting from the provision of daylight credit at below-market rates, although the appropriate market rate is unclear at the present time. The Board has chosen a relatively low fee so as not to risk disruption to the payments system.

[11] Banks with net credit balances during the day would be able to sell those balances to others in net debit positions if the time of day the credits occurred had positive value in an informal intraday market. Although the Federal Reserve attaches no value to these net intraday credits, others may choose to use such net credits to rearrange, for a fee, a bank's federal funds position to the advantage of those with net debit positions.

Some commenters suggested that higher prices be applied to later-in-the-day overdrafts to avoid possible disruptions caused by delayed sends. Some of these commenters suggested a higher deductible and a lower price in the morning coupled with a lower deductible and higher price in the afternoon. Time-of-day pricing would create an inducement to send payments earlier, provided that others, or at least those acting as counterparties to the earlier-sending institutions, do so as well. If only one institution sends earlier, that institution's costs may actually rise (it would pay the morning overdraft fee plus the higher afternoon overdraft fee if its overdrafts were not extinguished by then), unless the morning deductible were large enough to eliminate the morning fee. For time-of-day pricing to reduce overdrafts, a group of banks would have to agree to send to each other earlier in the day to benefit from the lower overdraft fee, and the cost of doing so would have to be less than the price differential between morning and afternoon overdrafts. This approach might require disciplining of uncooperative counterparties by the coalition of banks. Discipline could take the form of delayed sends that keep the disciplined party in overdraft until the afternoon, when higher fees are charged.

The Board believes that any inducement to accelerate payments under a time-of-day pricing plan would be offset by (1) the administrative complexity and the associated uncertainty about the impact on non-coalition payment participants, and (2) the incentive to accelerate all payments, regardless of their time sensitivity, resulting in less efficient resource allocation and little risk reduction.

The Board has adopted the overdraft fee at the proposed level; however, the fee will be quoted at a rate of 60 basis points (annual rate) for a 24-hour day. To obtain the daily overdraft fee (annual rate) for the standard Fedwire operating day, the quoted 60 basis point fee is multiplied by the percentage of the 24-hour day during which Fedwire is scheduled to operate. Further, the Board has adopted a standard 360-day bank year as the basis for quoting the annual daylight overdraft fee.

Thus, under the current 10-hour Fedwire operating day, the fully-phased-in overdraft fee will come to 25 basis points (60 basis points time 10/24), the same price as originally proposed by the Board. Quoting the overdraft fee independently of the Fedwire operating day is intended to reduce market confusion about rates as scheduled Fedwire hours are changed, to permit the overdraft charge per minute to remain constant in the event of changes in scheduled Fedwire operating hours, and to prevent price biases from influencing a depository institution's choice of whether or not to use a longer operating day.

The Board plans to phase in the 60 basis point fee (times an operating hour fraction) over a three-year period. On April 14, 1994, the fee will be 24 basis points, rising to 48 basis points one year later, and 60 basis points the following year. These phase-in fees are equal to the proposed 10, 20, and 25 basis point fees under current Fedwire operating hours. After evaluating the market's response to pricing, the Board may slow or accelerate the phase-in, cease the phase-in at a level below 60 basis points, or increase the fee above 60 basis points at the end of the phase-in or at a later date.

Deductible

The Board proposed to allow a *de minimis* level of free overdrafts by authorizing a deduction from the amount subject to pricing equal to 10 percent of qualifying capital. The deductible would (1) provide liquidity to the payments system, recognizing the lack of payments synchronization, especially for book-entry securities overdrafts; (2) compensate depository institutions, on average across all depository institutions over time, for Reserve Bank periodic computer down-time; and (3) contribute to operational simplicity by exempting from pricing a very large number of depository institutions that account for a very small amount of total overdrafts.

Commenters strongly supported the concept of the deductible, but some believed it should be higher than 10 percent to address all of the objectives of the deductible and to offset the treatment of intraday credit balances. However, a higher deductible would not only increase the amount of overdrafts exempt from pricing, but would also increase both the incentive and the capacity of institutions that do not themselves need or incur overdrafts at the Federal Reserve to sell their overdraft capacity to institutions that have exhausted their deductible and would otherwise have to pay a Federal Reserve fee. A deductible of 10 percent of capital exempts virtually all small overdrafters.

Some commenters suggested that the pricing program begin with a higher deductible and phase down to the proposed 10 percent level over time in order to provide depository institutions time to adjust to pricing and the new measurement procedures. The Board believes that by implementing the new measurement procedures one year in advance of pricing, and by phasing in the full price over three years, depository institutions will have sufficient time to adjust to pricing.

The Board has made a revision in the deductible calculation to take into account the possibility of longer Fedwire operating days. A change in the length of the operating day could alter the value of the deductible, and, as with the fee, an adjustment is necessary in the algorithm for the deductible to account for the effect of such change. If the fraction of the 24-hour day accounted for by the official Fedwire operating day is applied to both the nominal 24-hour rate and the net average overdrafts subject to pricing (i.e., average overdrafts less the deductible), those institutions that incur no additional overdrafts during an extended Fedwire operating day could benefit from an effective increase in their deductible.[12] The percentage increase in the deductible would be equal to the percentage increase in the operating day.

Thus, it is necessary to multiply the deductible by a factor to ensure that the value of the deductible does not vary with the length of the scheduled Fedwire operating day. Therefore, the Reserve Banks will calculate the gross daily fee on average daily overdrafts (based on the fraction of the 24-hour day that Fedwire is scheduled to operate, which could increase in the future) and reduce that amount by the fee that would apply to the deductible, based on a 10-hour Fedwire operating day. This calculation will provide the same result as that originally proposed for public comment (25 basis point annual rate on a 10-hour operating day) and will produce that same result for any other length of the

[12] Assume a bank with $10 billion in capital and $6 billion in daily average overdrafts over the current 10-hour operating day. Its daily fee under the pricing procedure proposed for comment would be the daily 25 basis point (annual rate) fee times the average daily overdrafts less the deductible (10 percent of capital), or (0.0025/360) (6–1) billion dollars = $34,722. The daily price would be the same using the pricing algorithm adopted by the Board, which incorporates the fraction of the day Fedwire is scheduled to operate: (.0060/360) (10/24) (6–1) billion dollars = $34,722. However, if the Fedwire operating day is increased to 12 hours, the bank's fee would fall to (.0060/360) (12/24) (5–1) billion dollars = $33,333. Daily average overdrafts fall from 6 to 5 because the operating day used to calculate the average has been increased by 20 percent. However, while the effect of the reduction in average overdrafts from 6 to 5 is offset by the increased fraction from 10/24 to 12/24, the increased fraction is applied to the same deductible, which has the effect of increasing the value of the deductible and thus reducing the overdraft charge, provided that overdrafts do not rise proportionally to the extended operating hours.

operating day. Maintaining a constant deductible is consistent with the goals of providing payments system liquidity, compensating for Reserve Bank downtime, and operational simplicity, but avoids building into the pricing algorithm a mechanism for automatically increasing the value of free credit permitted to depository institutions if operating hours are extended.

Incidence of Pricing and Economic Burden

Although daylight overdraft pricing will increase costs for those institutions subject to pricing, the Board believes that overall impact on the economy will be modest. Most depository institutions will be exempt from pricing, given the 10 percent deductible. During a 20-day test period ending August 23, 1989, and without any market responses to pricing, 285 banks (representing 220 bank holding companies) would have been subject to pricing, and over 6,000 banks would have been exempt from pricing. Over 80 percent of all fees would have been collected from the ten institutions paying the largest fees in the test period. The Board expects that depository institutions will take actions to avoid Federal Reserve overdraft fees, resulting in a lower incidence of pricing than was projected in the test period.

In light of the 10 percent deductible, it is unlikely that delayed sends and other responses to pricing by large banks will shift payment patterns so as to cause many more small banks to become subject to pricing. During the test period, over 42 percent of those banks that would have been subject to pricing would have paid annual fees of less than $1,000, and many would have paid annual fees of less than $500. Because the Board anticipates that a large number of banks will incur small fees, the Board has determined to waive any fee of $25 or less per two-week period to reduce the administrative burden on Reserve Banks and affected depository institutions.

Competitive Impact Analysis

The Board assesses the competitive impact of changes that have a substantial effect on payment system participants.[13] Under this analysis, the Board determines whether the change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services.

The Board does not believe that daylight overdraft pricing will adversely affect the ability of private-sector payments system participants to compete with the Reserve Banks in providing payments services. Private-sector correspondent banks have the ability to charge for intraday credit extended to their customers, either explicitly (as will the Reserve Banks under the pricing policy), or implicitly as part of overall service fees. In fact, Federal Reserve daylight overdraft pricing may benefit private-sector payments systems, such as CHIPS, if institutions shift payments from the Federal Reserve to private systems to avoid overdraft fees. Although there are aspects of the Board's risk reduction program that could adversely affect the ability of others to compete with the Federal Reserve (see the Competitive Impact Analysis regarding the Board's overdraft measurement procedures, Docket R–0721, elsewhere in today's **Federal Register**), the Board does not believe that pricing in itself has an adverse effect on competition.

Policy Statement

The Board has adopted the following, to be inserted as part (I)(B) in its "Federal Reserve System Policy Statement on Payments System Risk" under the headings "I. Federal Reserve Policy" and "B. Pricing.":

Each Reserve Bank will charge a fee for average daily daylight overdrafts in Federal Reserve accounts. Reserve Banks will deduct from the gross fee an amount equal to 10 percent of qualifying capital valued at the fee for a 10-hour operating day. Fees of $25 or less in any two-week interval will be waived.

The overdraft fee is 60 basis points (annual rate), quoted on the basis of a 24-hour day. To obtain the daily overdraft fee (annual rate) for the standard Fedwire operating day, the quoted 60 basis point fee is multiplied by the fraction of a 24-hour day during which Fedwire is scheduled to operate. For example, under a 10-hour scheduled Fedwire operating day, the overdraft fee equals 25 basis points (60 basis points multiplied by 10/24). Daylight overdraft pricing is effective April 14, 1994.

The 60 basis point fee (times an operating hour fraction) will be phased in over a three-year period. On April 14, 1994, the fee will be 24 basis points, rising to 48 basis points on April 13, 1995, and 60 basis points on April 11, 1996. Under a 10-hour scheduled Fedwire operating day, these phase-in fees are equal to 10, 20, and 25 basis points, respectively. A change in the length of the scheduled Fedwire operating day would not change the effective fee because the fee is applied to average overdrafts which, in turn, would be deflated by the change in the operating day. After evaluating the market's response to pricing, the Board may slow or accelerate the phase-in, cease the phase-in at a level below 60 basis points, or increase the fee above 60 basis points at the end of the phase-in or at a later date.

The fee applies to combined funds and book-entry securities daylight overdrafts in accounts at the Federal Reserve. The average daily overdraft is calculated by dividing the sum of the negative Federal Reserve account balances at the end of each minute of the scheduled Fedwire operating day (with credit balances set to zero) by the total number of minutes in the scheduled Fedwire operating day.

The gross fee for daylight overdrafts will be reduced will be reduced by the amount of a deductible, valued at the daylight overdraft fee for a 10-hour operating day. The deductible is an amount equal to 10 percent of qualifying capital, i.e., that capital used by the institution in calculating its new debit cap. (See section (I)(C), "Capital.") Because the fee applicable to the deductible is kept constant at the 10-hour operating day rate, any changes to the scheduled Fedwire operating day will not affect the value of the deductible.

The pricing deductible is independent of the exempt-from-filing test under the net debit cap policy. (See section (I)(D)(3), "Exemption From Filing.") Depository institutions are exempt from filing for a cap if their peak overdrafts do not exceed the lesser of 20 percent of their capital and $10 million. The deductible (valued at the fee for a 10-hour operating day) is subtracted from the gross fee for average overdrafts. An institution could be exempt from filing for a cap but be subject to pricing because its average overdrafts were over 10 percent of its capital. It could also have to file for a cap because its peak overdrafts exceeded the lesser of 20 percent of its capital and $10 million, but be exempt from pricing because its average overdrafts were less than 10 percent of its capital.

By order of the Board of Governors of the Federal Reserve System, October 6, 1992.

William W. Wiles,

Secretary of the Board.

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[13] These assessment procedures are described in the Board's policy statement entitled "The Federal Reserve in the Payments System" (55 FR 11648, March 29, 1990).

[Docket No. R-0721]

Modification of the Payments System Risk Reduction Program; Measurement of Daylight Overdrafts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: As part of its payments system risk reduction program, the Board is adopting new procedures for posting debits and credits to depository institutions' accounts at Federal Reserve Banks in order to measure daylight overdrafts accurately. Accurate measurement of daylight overdrafts is necessary in order to assess fees for the use of Federal Reserve intraday credit. (See Docket No. R-0668 elsewhere in todays **Federal Register**.) Appendix 2 summarizes the final version of the Board's modifications to the procedures for measuring daylight overdrafts and includes the major types of transactions affecting depository institutions' Federal Reserve accounts. The intent of overdraft measurement and pricing is to induce behavioral changes that will reduce risk and increase efficiency in the payments system.

EFFECTIVE DATE: October 14, 1993.

FOR FURTHER INFORMATION CONTACT: Florence M. Young, Assistant Director (202/452-3955), or Myriam Y. Payne, Senior Financial Services Analyst (202/452-3219), Division of Reserve Bank Operations and Payment Systems; Oliver I. Ireland, Associate General Counsel (202/452-3625) or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division; for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: One of the purposes of the Board's payments system risk reduction program is to reduce the Federal Reserve's direct credit risk. This risk is created when Reserve Banks extend intraday credit to depository institutions as payments are processed. If an institution is unable to settle its intraday overdraft at a Reserve Bank before the end of the day, the Reserve Bank could incur a loss. Furthermore, depository institutions create risk by permitting their customers, including other depository institutions, to transfer uncollected balances over wire systems in anticipation of their coverage by the end of the day.

Current Risk Reduction Program

Under the Board's current program, depository institutions establish a maximum amount of intraday overdrafts that they may incur in their accounts at the Reserve Banks. This maximum, or net debit cap, is a multiple of a depository institution's risk-based capital and is based on the institution's assessment of its own credit-worthiness, credit policies, and operational controls. The guidelines for the self-assessment were established by the Board, and the documentation supporting each depository institution's rating is reviewed by the institution's primary supervisory agency examiners. (See 52 FR 29255, August 6, 1987.)

Currently, daylight overdrafts are measured on an *ex post* basis. Fedwire funds and book-entry securities transfers are posted as they are processed during the business day. The net of all automated clearing house (ACH) transactions is posted as if the transactions occurred at the opening of business. All non-wire transactions are netted at the end of the business day; if the net is a credit, that credit is added to the opening-of-day balance, and if the net is a debit, the debit is deducted from the end-of-day position. Debits for original issues of U.S. Treasury securities as well as credits for redemptions and interest payments on Treasury and government agency securities are posted at 9:15 a.m., Eastern Time (ET). This *ex post* measure allows a depository institution to use its non-wire, net credit to offset Fedwire debits during the day, but postpones the need to cover a non-wire, non-ACH net debits until after the close of business.

1989 Pricing and Measurement Proposals

In 1989, the Board issued for public comment a comprehensive package of proposals to reduce payments system risk (54 FR 26090, June 21, 1989). The centerpiece of this package was a proposal to assess fees for depository institutions' use of Federal Reserve intraday credit. Before fees can be assessed for the use of intraday credit, it is necessary to have in place a rational and reasonable methodology for determining the amount of intraday credit used by depository institutions. The current *ex post* measurement procedures were designed to provide depository institutions some intraday credit, as a means of easing their adjustment to the payments system risk reduction program when it was implemented in 1986. While the current measurement procedures have eased the transition, they do not provide a satisfactory basis for determining a depository institution's use of intraday Federal Reserve credit.

The Board's proposal to modify the procedures used to measure daylight overdrafts was based on the following principles: (1) To the extent possible, the measurement procedures should not provide intraday credit to payments system participants; (2) the procedures should recognize the legal rights and responsibilities of both parties to a transaction and, in particular, should reflect the time at which payor institutions are obligated to pay for a transaction; (3) users of payments services should be able to control their use of intraday credit; and (4) to the extent possible, the Reserve Banks should not obtain any competitive advantage from the measurement procedures.

To accomplish these objectives, the Board proposed to continue to post Fedwire funds and book-entry securities transfers as they are processed during the business day and to post all commercial ACH and non-wire transactions after the close of business. Commenters raised serious concerns about the effect of this proposal on current cash management practices and questioned the equity of charging for the intraday use of funds collected through the check and ACH mechanisms.

1991 Measurement Proposal

In light of the serious concerns raised by commenters, in 1991 the Board requested public comment on a revised approach to modifying the measurement procedures (56 FR 3098, January 28, 1991). The Board proposed to account for non-wire transactions on a quasi-real-time basis. (Appendix 1 outlines the details of this proposal.) Under this approach, Fedwire funds and book-entry securities transfers would have continued to be posted as they were processed. Credit for non-wire transactions, such as checks, would have been posted, on average, when debits would have been posted to the accounts of paying institutions.

The 1991 proposal was straightforward for the majority of payment transactions, such as ACH transactions, because debits to payor institutions and credits to collecting institutions can be posted at the same time easily. The proposal for posting credits for checks collected through the Reserve Banks, however, was fairly complex because checks are paper instruments that must be presented physically to payor institutions. Presentment times, which are typically dependent on courier delivery schedules, range from early in the day until 2 p.m. Pacific Time (PT) or 5 p.m. ET. To provide credit as early as possible during the business day, the Board proposed to post credits based on the Reserve Banks' ability to present

checks to and obtain settlement from payor institutions. This conceptual approach resulted in the development of a unique set of crediting fractions for each of the Federal Reserve's 141 availability zones. The sets of fractions would have been used as the basis for posting check credits hourly during the business day, beginning at 11 a.m. ET and concluding at 6 p.m. ET.

A total of 209 commenters responded to the Board's 1991 measurement proposal. Comparing the 1991 proposal with the 1989 proposal, many commenters commended the Board for addressing their concerns about early intraday funds availability and current cash management practices.

While commenters expressed concerns about the proposed times for posting many types of payment transactions, their most significant concerns centered on the proposal to credit the accounts of institutions collecting checks through the Reserve Banks using the fractional availability methodology. Over 35 percent of the commenters specifically supported the concept of posting check transactions during the business day. Most commenters, however, viewed the proposal as exceedingly complex. These commenters indicated that its adoption would cause depository institutions to incur implementation and ongoing operating costs that would exceed any benefits directly related to the reduction of payments system risk.

The industry's concerns about the complexity and the cost of implementing the proposed methodology for posting check transactions were reinforced in an August 1, 1991, meeting between Board and Reserve Bank staff and industry representatives at which alternative check posting methodologies were discussed.

A. Commercial Check Transactions

Approximately 130 commenters specifically addressed the treatment of check transactions. As noted, the most significant concern raised by these respondents dealt with the complexity of the fractional availability methodology proposed for posting check credits intraday.

Commenters indicated that they would incur substantial costs to modify their systems for monitoring customers' intraday account balances, if they were to make funds available to their customers in the same way that they received credit from the Reserve Banks. Further, the commenters stated that attempting to emulate the proposed approach to granting intraday credit for checks would require very complex systems to calculate customers' daylight overdrafts in order to charge them for their use of intraday credit. Commenters estimated that one-time implementation costs would range from $200,000 to $3 million and that ongoing operating and maintenance costs would range from $100,000 to $3.0 million annually, per institution.

Several commenters were also concerned about the costs they would incur to determine the value of their customers' check presentments, in order to obtain payment from their customers by the time the institution would be charged by the Federal Reserve.[1] These commenters indicated that they would either need to (1) purchase payor bank services from the Federal Reserve Banks or (2) expand their operating capacity for processing customer checks to determine customer presentment totals in order to obtain payment by the proposed posting times. One respondent indicated that the cost of obtaining additional payor bank services would amount to $180,000 per year and another respondent indicated that its ongoing operating expenses would increase by 30 to 40 percent.

To address their concerns, commenters suggested that: (1) The number of intraday posting times be reduced, (2) check credits, or check credits and debits, be posted at one time per day, or (3) the current measurement scheme be retained. Some of the respondents who urged the Board to retain the current measurement scheme recommended that the value of the intraday float created by the current posting methodology be recovered through Federal Reserve service fees.

The Board believes that the responses received on the 1991 measurement proposal reflect depository institutions' concerns about the combined effects of the proposals to modify the measurement procedures and to charge for daylight overdrafts. In assessing commenters' concerns, the Board believes that depository institutions can be expected to make rational business decisions before changing the systems currently used to monitor their customers' intraday account balances or developing systems to charge their customers for intraday credit extensions. Thus, institutions whose daylight overdrafts would not exceed their net debit caps as a result of changes to the measurement procedures (over 93 percent of institutions covered by the policy) and institutions that would not be subject to Federal Reserve daylight overdraft charges (about 96 percent of institutions covered by the policy) would not be expected to undertake costly system changes.[2] Further, depository institutions would not incur costs to recover daylight overdraft charges from their customers, if those costs exceed either the charges imposed by the Federal Reserve or the income they expect to derive through charging customers over some reasonable time frame.

The types of changes that depository institutions would need to make to check processing and customer monitoring systems if they choose to emulate the Federal Reserve's 1991 proposal for posting check transactions indicates that the costs of such system changes could vary considerably, depending upon the sophistication of an institution's existing system. Institutions with very sophisticated systems might be able to accomplish the task at a fairly low cost. Institutions with less sophisticated systems, however, could find the undertaking extremely costly and could incur expenditures in the ranges estimated by commenters. For the few institutions that the Board expects might undertake such changes,[3] developing systems to charge customers for their use of daylight credit would be very expensive, requiring fundamental changes in depository institutions' demand deposit accounting and customer monitoring systems. Discussions with representatives of depository institutions have indicated that, even if the current *ex post* measurement scheme were retained, the daylight overdraft pricing may necessitate significant changes in the systems that are used to monitor their customers' intraday positions in order to charge them for the use of daylight credit.

It is not possible to estimate with any degree of accuracy the costs that the industry might bear under the Board's 1991 proposal for posting check credits intraday. It is reasonable to assume, however, that the majority of the costs would be borne by the few large institutions subject to substantial

[1] In most cases, customers using controlled disbursement services and payable-through banks maintain zero or very low overnight balances and fund daily check presentments late in the day after they have been advised of the value of the day's presentments.

[2] This analysis is based on survey data for a four-week period ending August 23, 1989. Because this analysis could not assess the results of potential behavioral changes, the potential number of institutions affected by the proposal could be somewhat overstated or understated.

[3] The Board estimates that only 30 institutions would be charged fees amounting to more than $120,000 per year, if a fee equal to an annual rate of 25 basis points were assessed for daily average daylight overdrafts.

daylight overdraft charges. Nevertheless, the Board has modified the 1991 proposal, as explained below, to reduce the relative complexity of the check posting process and to facilitate the industry's adjustment to the new measurement procedures.

Check Debiting—As noted above, several commenters indicated that debiting payor institutions approximately an hour after presentment takes place would increase operating expenses. The Board believes that the majority of payor institutions could adjust to intraday debiting for check presentments fairly easily. For example, depository institutions could require their controlled disbursement and payable-through-draft customers to fund their accounts based on estimated presentments rather than expending real resources to determine the value of checks to be paid by each customer before the time the institution would be debited by the Federal Reserve.

Several industry representatives have also indicated that beginning to post debits for check presentments at 11 a.m. ET would place east coast institutions at a competitive disadvantage compared with institutions located on the west coast. These individuals argue that the majority of east coast institutions would be charged for check presentments by 12 noon ET, which would cause the institutions to incur daylight overdrafts starting at that time. Conversely, they argue, institutions located on the west coast would not be debited until late in the day. As a result, the duration of their intraday overdrafts would be shorter than the duration for east coast institutions.

While it is true that over 70 percent of the value of checks drawn on institutions located in the Eastern Time zone would be charged to payor institutions by 12 noon ET, the majority of checks collected by these institutions is drawn on eastern institutions. Thus, these institutions would likely receive credit for a substantial percentage of the checks they collect through the Reserve Banks by 12 noon ET. Moreover, the staff believes that providing early-in-the-day credits to institutions using Federal Reserve check collection services provides benefits that more than offset the early-in-the-day debits to payor institutions.

Furthermore, depository institutions located in the Eastern Time zone currently have a competitive advantage in offering controlled disbursement services to corporate customers, compared with institutions located in the Pacific Time zone. Charging for check presentments during the business day may reduce some of the current competitive differences.

Several commenters suggested posting check credits and debits simultaneously so that depository institutions could continue to benefit from the netting of check transactions. Conceptually, such an approach would be simple for both depository institutions and the Reserve Banks to implement. Its adoption, however, would result in either (1) payor institutions being debited before presentment or (2) collecting institutions being credited very late in the day. The Board believes that, absent voluntary participation in other arrangements, such as electronic presentment arrangements, checks should be presented physically to payor institutions before their Federal Reserve accounts are charged to provide an opportunity for the payor institution to verify receipt of checks. In addition, late-in-the-day crediting is inconsistent with the public's desire to use the proceeds of check deposits to fund investments and other payments.

Finally, several commenters requested that the current measurement procedures be retained and suggested that the value of intraday float be recovered through the Reserve Bank's check collection fees. The Board believes that retaining the current procedures for posting checks and including the value of intraday float in the Reserve Banks' check collection fees could promote inefficiencies in the payments system. Such an approach would contribute to cross-subsidies among users of the Federal Reserve's check collection services and, thus, would not ensure that the parties benefiting from intraday float bore its costs.

The Board, therefore, has determined that debits for check presentments should be posted on the next clock hour that is at least one hour after presentment takes place, beginning at 11 a.m. ET.[4,5] Debits for check presentments will be posted hourly thereafter until all debits are posted at 6 p.m. ET. Table 1 illustrates the relationship between the time of presentment and the posting time of debits for check presentments.

TABLE 1.—CHECK DEBITING TIMES

[All times are Eastern Time]

Presentment time	Posting Time
Through 10:00 a.m.	11:00 a.m.
10:01 a.m. to 11:00 a.m.	12:00 noon
11:01 a.m. to 12:00 noon	1:00 p.m.
12:01 p.m. to 1:00 p.m.	2:00 p.m.
1:01 p.m. to 2:00 p.m.	3:00 p.m.
2:01 p.m. to 3:00 p.m.	4:00 p.m.
3:01 p.m. to 4:00 p.m.	5:00 p.m.
4:01 p.m. to 5:00 p.m.	6:00 p.m.

Depository institutions may receive multiple check presentments from the Federal Reserve each day. For example, Federal Reserve Banks make two daily presentments to depository institutions in the High Dollar Group Sort (HDGS) program. HDGS institutions typically receive a regional check processing center (RCPC) presentment and an HDGS presentment. The Federal Reserve will debit these institutions no earlier than one hour after each presentment. In the case of city institutions, the Federal Reserve may present some checks at the established clearing house exchange to those city banks that participate in the exchange, and present the remainder of the checks at approximately noon. For city banks, debits will be posted at two times: (1) Checks presented by 10 a.m. ET will be posted at 11 a.m. ET, and (2) checks presented after 10 a.m. ET will be posted on the next clock hour that is at least one hour after the last physical presentment.

The Federal Reserve presents checks to some depository institutions electronically. Debits for electronic presentments will also be posted on the next clock hour that is at least one hour after the time of presentment [6]—but not earlier than 11 a.m. ET and no later than 3 p.m. local time. Depository institutions that receive presentments of checks in both electronic and paper form will be charged separately for their electronic and paper presentments.

The Reserve Banks will determine the actual time(s) that checks are presented to each paying institution to establish the initial debit-posting time(s).

[4] Currently, subpart A of Regulation J requires a paying bank to settle for checks presented by a Reserve Bank by the close of its banking day or the close of the Reserve Bank's banking day whichever is earlier. The Board has adopted amendments to Regulation J to allow Reserve Banks to debit for check presentments on the next clock hour that is at least one hour after presentment takes place. (See Docket No. R-0722, elsewhere in today's **Federal Register**.)

[5] It should be noted that, if there were a significant demand for early-in-the-day funds availability, the Board might consider allowing the Reserve Banks to debit payor institutions before 11 a.m. ET, so long as the earlier debiting time were consistent with Regulation J (12 CFR part 210).

[6] The presentment of electronic items is defined in the agreement between the paying bank and the Federal Reserve. As in the case of paper checks, all electronic presentments will be made by 2 p.m. local time.

Depository institutions will receive notification of their debiting time(s) during 1993.

The debit for returned checks presented to a depositary bank will be posted at the same time as the debit for forward collection checks presented to that bank as paying bank. The posting time will be the same even if the returned checks are presented at a location and at a time different from the presentment of the forward collection checks.[7]

The Federal Reserve will adjust the debit posting time for checks if all of the following conditions exist: (1) Check presentments are made after the scheduled delivery time; (2) a depository institution reports that checks were presented either less than one hour before the scheduled posting time or after the scheduled posting time; and (3) the institution would have either incurred a daylight overdraft charge or exceeded its net debit cap if the debit were posted according to the regular schedule. In addition, the Federal Reserve will post debits for checks that were presented after the close of the paying bank's banking day at the institution's scheduled debiting time on the following business day.

Check Crediting Alternatives—The Board evaluated numerous check crediting alternatives after the 1991 proposal was issued for public comment. Each crediting alternative evaluated below is based on the Board's determination that debits for check presentments should be posted on the next clock hour that is at least one hour after presentment takes place, beginning at 11 a.m. ET.

The following three alternatives were the least complex options considered: (1) Post check credits at one national float-weighted time; (2) post check credits at one float-weighted time for each of the four U.S. time zones; and (3) post check credits based on a unique set of fractions per time zone.

The concept underlying alternative 1 (one national posting time) and alternative 2 (one posting time per time zone) differs from the 1991 proposal in that it involves the creation of intraday float. Aggregate net intraday float, however, would be close to zero because the amounts of intraday credit and debit float created for brief periods would offset one another. For example, if half of the dollar value of all checks were charged to payor institutions at 12 noon ET and the other half were charged at 1 p.m. ET, a float neutral crediting time of 12:30 p.m. ET could be established. Because payor institutions would be charged at noon fore half of the dollar value of checks, but credit would not be granted until 12:30 p.m., credit float would exist for 30 minutes. Likewise, debit float would exist for 30 minutes after the 12:30 p.m. crediting time because the remaining payor institutions would not be charged until 1 p.m. Thus, some intraday credit and debit float would be created, but net intraday float would be zero.

Alternative 1—Under *one nationwide crediting time*, survey data collected by the Reserve Banks in April 1992 indicate that all check credits could be posted at 12:15 p.m. ET. Adoption of a single crediting time would significantly simplify the intraday posting of check credits. Although it would result in later availability than the original proposal, several industry representatives who attended a meeting on August 1, 1991, at which check posting issues were discussed expressed a preference for this approach. Twenty-five percent of the commenters on the Board's January 1991 proposal also expressed a similar preference.

A single float-weighted posting time also has several disadvantages. First, a single crediting time might increase daylight overdrafts at institutions where debits for check presentments would be posted at 11 a.m. ET, but credits for check deposits would not be posted until 12:15 p.m. ET. Second, some deposits in the Central, Mountain, and Pacific time zones are very close to or after 12:15 p.m. ET. As a result, the Reserve Banks' Account Balance Monitoring System (ABMS), which many institutions use to manage their intraday Federal Reserve account positions, could not reflect the institutions' balances based on the posting rules.[8] This disadvantage is largely offset by the fact that check depositors are aware of the value of their deposits, that is, their credits. Third, because credits for checks drawn on payor institutions located in the Pacific Time zone would be made available to collecting institutions before the majority of the checks can be presented to payor institutions, it could be difficult for correspondent banks to compete with the Federal Reserve in providing intraday availability in this region. Conversely, the majority of east coast presentments is made to payor institutions before 11:00 a.m. ET, making a 12:15 p.m. ET crediting time unattractive for checks drawn on east coast institutions. Finally, west coast institutions might be able to inflate their intraday Federal Reserve account balances artificially be exchanging large-dollar checks. Institutions depositing such checks with the Federal Reserve would receive credit at 12:15 p.m. ET, but the payors would not be charged until later in the day. The Board believes that the disadvantages of this alternative outweigh its simplicity.

Alternative 2—If check credits were posted based on *one float-weighted time per time zone*, depository institutions would face no more than six crediting times.[9] Compared with the 143 sets of fractions,[10] which some depository institutions would have faced under the 1991 proposal, this alternative should be considerably easier for depository institutions to implement. Further, many smaller institutions deposit only mixed cash letters and would face only one crediting time.

This alternative would result in somewhat later posting times than the Board's 1991 proposal. Credit for checks drawn on payor institutions located in the Eastern Time zone (about 60 percent of all checks collected through the Reserve Banks), however, could be posted at about 11:45 a.m. ET, based on April 1991 survey data.

As with the one float-weighted posting time, no credit would be

[7] A Reserve Bank has the right to deliver returned checks to a depositary bank at the same location as it presents forward collection checks to that bank (12 CFR 229.32(a)(1)). If a bank requests that the Reserve Bank deliver returned checks to a different location than its presentment location for forward collection checks, the Reserve Bank will generally do so if the bank agrees to accept the debit for the returned checks at the same time as its debit for forward collection checks.

[8] The Daylight Overdraft and Pricing System (DORPS) would calculate daylight overdrafts for purposes of assessing charges after the fact and would post check credits at the designated times.

[9] Institutions depositing separately sorted deposits drawn on payor institutions located in all four time zones would receive credits at four times during the day. Institutions depositing mixed cash letters would receive credit at one time during the day, based on the mix of checks deposited at Federal Reserve offices in each time zone. Similarly, institutions depositing other Fed cash letters would receive credit at one time during the day. If an institution deposited checks in all four time zones and deposited a mixed and an other Fed cash letter with its Local Reserve office, it would receive credit at six different times.

Separately sorted cash letters consist only of checks drawn on payor institutions located in a specific availability zone. Mixed cash letters consist of checks drawn on any institution, other than the depositing institution. Other Fed cash letters consist of checks drawn on institutions located outside of the availability of the depositing institution's local Federal Reserve office.

[10] Sophisticated collecting institutions frequently deposit separately sorted checks in each of the Federal Reserve's 141 availability zones and also deposit mixed and other Fed cash letters with their local Reserve offices. Under the 1991 proposal, a separate set of crediting fractions would have been developed for each of the 141 availability zones and for each Reserve office's mixed and other Fed products.

available to collecting institutions at 11 a.m. ET. Thus daylight overdrafts at institutions debited for check presentments at 11 a.m. ET might increase somewhat. The timing difference between the first debiting time and the first crediting time, however, is 45 minutes, rather than the one hour and 15 minutes difference under the one-posting-time alternative.

Additionally, granting credit based on float-weighted posting times for each time zone would result in credit for some check deposits not being reflected in the ABMS by the posting times because some deposit deadlines are very close to or later than the float-weighted posting times. As noted earlier, this situation should not cause significant problems for collecting institutions because they know the value of their check deposits.

The Board believes that this alternative addresses commenters' concerns about the complexity of the January 1991 proposal. At the same time, this alternative might tend to increase daylight overdrafts somewhat more than the increase estimated under the original proposal.

Alternative 3—The alternative under which check credits would be posted based on a unique set of fractions per time zone would permit collecting institutions to receive some credit for check deposits beginning at 11 a.m. ET. This option would appeal to those institutions that are more concerned about intraday availability than complexity. Under this alternative, based on April 1991 survey data, collecting institutions could receive credit for about 50 percent of the checks collected through the Federal Reserve at 11 a.m. ET, assuming the composition of their check deposits reflects the national averages.

As with the other two alternatives, all credits could not be reflected in the ABMS by the first posting time. The Reserve Banks estimate that from 5 to 19 percent of the dollar value of check deposits would not be reflected in the ABMS at 11 a.m. ET. As indicated previously, delays in ABMS posting should not cause significant problems for collecting institutions.

Posting check credits based on a unique set of fractions per time zone offers availability that is comparable to the fractional availability approach originally proposed, but collecting institutions would face no more than six sets of fractions, rather than the 143 sets of fractions that they would have faced under the 1991 proposal. If depository institutions chose to emulate this crediting alternative in their customer monitoring systems, their implementation costs should be lower than if they attempted to emulate the 1991 proposal.

Crediting Alternatives Adopted by the Board—Both the float-weighted posting time per time zone and the unique set of crediting fractions per time zone are basically consistent with the Board's guiding principles. Because some depository institutions might be negatively affected if no credit for check transactions were provided by 11 a.m. ET, the Board has determined to permit depository institutions to choose to receive credits for checks collected through the Reserve Banks based on (1) one float-weighted posting time per time zone, or (2) a unique set of fractions for each of the four U.S. time zones. Further, the Board indicated that a depositing institution may select only one crediting option for all of its check deposits. Finally, the crediting option selected by a correspondent bank will apply to check credits posted by the Reserve Banks for all of its respondent institutions.

Under the *float-weighted posting time per time zone* option, a depository institution would receive credit at one time for all separately sorted, group sorted, and fine sorted deposits made to any Federal Reserve office located in the respective time zone. The credit posting time for checks that are transported (either by transportation arranged by the Federal Reserve, that is, consolidated shipment, or by transportation arranged by the depositor, that is, direct send) from one Federal Reserve office territory to another Federal Reserve office, will depend on the time zone of the destination Federal Reserve office, not the location of the paying bank. Table 2 illustrates the posting times that might apply to deposits at Federal Reserve offices in each time zone.

TABLE 2.—SEPARATELY SORTED FLOAT-WEIGHTED POSTING TIMES [1]

[All times are Eastern Time]

Time zone	Posting time
Eastern	11:45 a.m.
Central	12:15 p.m.
Mountain	1:00 p.m.
Pacific	2:00 p.m.

[1] These data are preliminary and are based on an April 1991 survey. The actual posting times will be calculated using updated survey data on the actual debiting times for paying banks. Banks will be notified of the final posting times by July 1993.

Under the *fractional posting option*, a depository institution would receive credit for check deposits according to an intraday availability schedule with credits posted beginning at 11 a.m. ET and hourly thereafter. Table 3 estimates the credit percentages that would apply to each clock hour in each time zone.

TABLE 3.—SEPARATELY SORTED DEPOSIT FRACTIONAL POSTING TIMES [1]

Time zone	Percentage of total dollars credited (ET)					
	11:00	12:00	1:00	2:00	3:00	4:00
Eastern	59	13	22	6		
Central	48	10	16	22	4	
Mountain	34	18	7	12	29	
Pacific	13	10	6	29	10	32
Percent of total dollars	50	12	18	13	3	4

[1] Preliminary data, see footnote 1 to Table 2.

Mixed and Other Fed Check Deposits—The Federal Reserve Banks will post credits for deposits of mixed and/or other Fed cash letters in accordance with the crediting option selected by the depositing bank, or its correspondent institution. The procedures and the available options parallel the crediting procedure for deposits of separately sorted checks. The Federal Reserve Banks will calculate credit posting times that are float-neutral, based on the mix of checks generally contained in mixed and other Fed deposits at all Federal Reserve offices in each of the four U.S. time zones. Table 4 provides estimated credit posting times that would apply under the one posting time per time zone option for deposits of mixed and other

Fed cash letters at Federal Reserve offices in each time zone.

TABLE 4.—MIXED AND OTHER FED FLOAT-WEIGHTED POSTING TIMES [1]

[All times are Eastern Time]

Time zone	Posting time	
	Mixed	Other Fed
Eastern	12:00 noon	12:00 noon
Central	12:15 p.m.	12:00 noon
Mountain	12:45 p.m.	12:45 p.m.
Pacific	2:00 p.m.	12:30 p.m.

[1] Preliminary data, see footnote 1 to Table 2.

For example, the credit posting time for mixed cash letters deposited at the Los Angeles Branch (Pacific Time) would be 2 p.m. ET, and the credit posting time for other Fed cash letters deposited at this office would be 12:30 p.m. ET. These float-weighted times reflect the location of the payor banks on which the checks that are deposited at Federal Reserve offices in the Pacific Time zone are drawn.

Under the fractional posting option, a collecting institution will receive credit for mixed and other Fed deposits according to an intraday availability schedule with credits posted beginning at 11 a.m. ET and hourly thereafter. Tables 5 and 6 estimate the credit percentages that would apply to each clock hour in each time zone for mixed and other Fed deposits.

TABLE 5.—FRACTIONAL POSTING TIMES FOR MIXED DEPOSITS [1]

Time zone	Percentage of total dollars credited (ET)					
	11:00	12:00	1:00	2:00	3:00	4:00
Eastern	56	13	20	8	3	
Central	48	11	16	19	4	2
Mountain	37	15	10	15	18	5
Pacific	16	10	7	28	10	29

[1] Preliminary data, see footnote 1 to Table 2.

TABLE 6.—FRACTIONAL POSTING TIMES FOR OTHER FED DEPOSITS [1]

Time zone	Percentage of total dollars credited (ET)					
	11:00	12:00	1:00	2:00	3:00	4:00
Eastern	53	13	18	11	5	
Central	51	12	18	13	6	
Mountain	39	12	14	18	6	11
Pacific	42	13	14	14	9	8

[1] Preliminary data, see footnote 1 to Table 2.

The Reserve Banks will provide the check crediting times that will be effective October 14, 1993, to depository institutions during July 1993. Depository institutions will receive credit for check deposits at the single posting time per time zone unless an institution notifies its local Federal Reserve office no later than September 14, 1993, that it wishes to use the fractional crediting option. An institution may change its crediting option with 30-days advance notice to the Federal Reserve. The Federal Reserve will update the credit schedule semiannually based on changes to the times that debits are posted and the mix of checks received for collection.

Other Check Transactions—The Federal Reserve's implementation of a quasi, real-time approach to posting non-wire transactions will change the way a number of other check transactions are posted.

a. *U.S. Treasury Checks, Postal Money Order, U.S. Savings Bonds Deposited Under the EZ-Clear Program, and Checks Drawn on Local Federal Reserve Banks.*—Deposits of these items currently receive same-day credit when deposited in separately sorted cash letters by deadlines that typically range from 3 p.m. to 4 p.m. local time.[11] In order to provide credit for these checks early in the day, the Board's 1991 proposal indicated that the Federal Reserve Banks would establish new deposit deadlines at 12:01 a.m. or later (local time) for separately sorted deposits of these items. Credit for separately sorted deposits received by the new deadline would have been posted at the opening of Fedwire, currently 8:30 a.m. ET.

Several commenters requested that the Federal Reserve post credits for such deposits one hour after they are delivered to the Federal Reserve or one hour after the opening of Fedwire, whichever is later. Based on the experience of Reserve Bank personnel, these types of deposits are typically received with other check deposits on regularly scheduled check courier deliveries. As a result, it is unlikely that significant dollar volumes of these items would be deposited throughout the business day. Nevertheless, the Board determined that, to provide somewhat earlier intraday credit and to standardize the time at which credit is granted across Reserve offices, new deposit deadlines for separately sorted items will be established at 12:01 a.m. or later (local time) and at 4 p.m. ET, effective July 1, 1993. When the new measurement procedures are implemented on October 14, 1993, credit for items deposited by the new "12:01 a.m." deadline will be posted at the opening of Fedwire and credit for items deposited by 4 p.m. ET will be posted at 5 p.m. ET. In addition, the Board determined that Reserve Bank offices may continue their current late afternoon deadlines for separately sorted deposits—with credit posted after the close of Fedwire. If the Reserve Banks begin to receive large-dollar volumes of these items at other times during the day, consideration will be given to adding deposit deadlines.

Depository institutions may also deposit these items in mixed and city

[11] Refer to the Reserve Banks' operating circular for details on current deposit rules and deadlines.

cash letters. When they are contained in such deposits, they will be posted at the float-weighted posting time or included in the 11 a.m. ET fraction, for the time zone of the Federal Reserve office at which they are deposited.

b. *Foreign check deposits.*—Credit for deposits of foreign checks will be posted after the close of Fedwire. Debits to the accounts of collecting institutions through which the Federal Reserve collects foreign checks will also be posted after the close of Fedwire.

c. *Nonmachinable check deposits*—Credit for deposits of nonmachinable checks will be posted after the close of Fedwire.

d. *Corrections*—Data entry errors discovered by the Federal Reserve or by depository institutions amounting to $1 million or more affecting the amount of credit or debit for cash letters will be corrected as soon as discovered and posted beginning at 11 a.m. ET and hourly thereafter. Smaller errors will be posted to Federal Reserve accounts after the close of Fedwire.

B. ACH Transactions

The Board's proposals concerning ACH transactions were discussed by 131 commenters. Nearly 90 percent of these commenters supported the proposal to post debits to the accounts of institutions originating *ACH credit transactions* and credits to the accounts of institutions receiving such transactions at the opening of Fedwire on the settlement day. These commenters indicated that the proposal was consistent with current industry practices, which allow customers to use the proceeds of ACH credit transactions early in the morning on the settlement day. Only two respondents opposed the proposal. These commenters were concerned that posting debits to originating institutions' accounts at the opening of Fedwire would have a detrimental effect on the ACH mechanism because institutions would be required to fund their accounts the day before the settlement day.

Numerous discussions with users of the ACH mechanism have indicated that the benefits of early-in-the-day funds availability for receivers of ACH credit transactions are important to the future viability of the mechanism. Further, originating institutions are aware of the value of payments settling each day and can plan to cover those payments. Survey data for the four-week period ending August 23, 1989, also indicated that the proposal would not disadvantage the majority of originating institutions. The Board, therefore, has determined that debits to the accounts of originators and credits to the accounts of receivers of ACH credit transactions should be posted at the opening of Fedwire as proposed in 1991

In the case of *ACH debit transactions*, nearly 80 percent of the commenters opposed the proposal to post credits to the accounts of institutions originating ACH debit transactions and debits to the accounts of institutions receiving such transactions at 11 a.m. ET. Because of the desire to receive credit early in the day, the majority of these respondents requested the Federal Reserve to post ACH debit transactions at the opening of business. Commenters noted that ACH debit transactions were used for a variety of purposes in addition to cash concentration transactions and that the transactions were funded not only by checks becoming available on the settlement date, but also in a variety of other ways. As a result, these commenters indicated that associating the posting time for ACH debit transactions with the first posting time for commercial check transactions did not reflect depository institutions' funding practices.

Several respondents acknowledged that posting ACH debit transactions at the opening of Fedwire causes daylight overdrafts in many receiving institutions' Federal Reserve accounts. The majority of these commenters suggested that overdrafts caused by ACH debit transactions be exempt from overdraft charges. A number of commenters located on the west coast indicated that the posting time for ACH debit transactions should be based on local time to permit west coast institutions to obtain funding before the debit is posted.

Posting ACH debit transactions at 11 a.m. ET would delay funds availability to originators of these transactions compared with the current measurement procedures. At the same time, posting ACH debit transactions at the opening of business would cause about 200 to 300 institutions to start the day in an overdrawn position. As commenters indicated, the Reserve Banks do not presently counsel institutions that incur daylight overdrafts due solely to ACH transactions, largely because these institutions do no currently have the opportunity to obtain funding for ACH debit transactions before their accounts are charged. The Board believes, however, that when fees are assessed for daylight overdrafts, no overdrafts should be exempt from charges beyond the deductible determined by the Board. Finally, if the accounts of receivers of ACH debit transactions were debited based on local time, as suggested by some commenters, it would be necessary to grant credit to the accounts of originators based on the location of the receiving institution to avoid creating intraday float. Such a step would significantly complicate operating procedures and would certainly reduce the attractiveness of this electronic mechanism

Receivers of ACH debit transactions cannot predict with certainly the value of transactions that they will receive on a certain day. In order to avoid incurring overdrafts, receiving institutions need some time after the opening of Fedwire to obtain funding for payments before their accounts are debited. The Board, therefore, has adopted the 1991 proposal to credit the accounts of originators and debit the accounts of receivers of ACH debit transactions at 11 a.m. ET.

The Board has also determined that ACH return items and check truncation items, which are processed during the day for same-day availability and are normally delivered to receiving institutions around 4 p.m. ET, should be posted at 5 p.m. ET, as proposed in 1991.

C. Net Settlement Transactions

Under the 1991 proposal, members of private-sector clearing arrangements would be permitted to determine the time at which the net settlement entries for their clearing arrangements would be posted.[12] The Reserve Banks would accept multiple settlement statements and would post settlement entries one hour after the data were received from the agent for the clearing arrangement. Thirteen of the 20 commenters that discussed this proposal supported it. Four of these respondents suggested that entries be posted 30 minutes after receipt by the Federal Reserve.

Respondents opposing the proposal were concerned that members of clearing arrangements would select late posting times, thus delaying availability. Other commenters indicated that Reserve Bank participation in clearing arrangements that selected late posting times would create competitive inequities by creating incentives for corporate customers to maintain accounts with institutions receiving late afternoon charges. Several commenters suggested that posting times for net settlement entries should be no later than 12 noon or 1 p.m. ET. One commenter suggested that the current procedures should be retained; that is, post net credits as though they occurred at the opening of Fedwire and net debits

[12] The Reserve Banks provide net settlement services to about 250 private clearing arrangements, including local check clearing arrangements, privately operated ACH networks, automated teller machine (ATM) networks, point-of-sale (POS) networks, and credit card processing arrangements.

as though they occurred after the close of Fedwire. Five commenters indicated that the current procedures should be retained for exchanges of short-term instruments, such as commercial paper.

The Board believes that permitting members of clearing arrangements to agree on the time at which settlement entries would be posted provides clearing arrangements the means to provide effective and competitive services. To the extent that the posting times selected by clearing groups are late in the day, the Reserve Banks would exercise their option of not participating in such arrangements. The Board also recognizes that the value of short-term instruments exchanged among members of the New York Clearing House is large. It would be inconsistent with the Board's objective of eliminating intraday float, however, to retain the current procedures for posting these entries. Further, the Depository Trust Company's book-entry commercial paper clearing and settlement system continues to expand and should contribute to a reduction in daylight overdrafts caused by commercial paper activity. Finally, the Board believes that providing the Reserve Banks an hour to post net settlement entries is not unreasonable because processing is often performed manually. In addition, the Reserve Banks' staffs must ensure the accuracy of the data submitted and determine that the entries are in balance before they are posted.

The Board, therefore, has determined that members of private-sector clearing arrangements should be permitted to determine the time at which the net settlement entries for their clearing arrangement will be posted, as proposed in 1991. The Reserve Banks will accept multiple settlement statements and will post net settlement entries on the next clock hour approximately one hour after the data are received from the agent for the clearing arrangement.[13]

D. Book-Entry Securities Activity

Thirty-eight commenters discussed the posting of book-entry securities activity. These respondents indicated that, because the book-entry transfer system is sender-driven, it is difficult for receivers of incoming transfers to control overdrafts caused by such transfers. The majority of these commenters requested that the book-entry transfer system be opened later than the funds transfer system to provide receiving institutions time to obtain funding before securities transfers are delivered. Suggested opening times ranged from 9:15 a.m. to 11:30 a.m. ET. Commenters also suggested that the system be modified to provide receivers time to obtain funding during the day before the securities are delivered and debits are posted to their accounts. Finally, two commenters expressed concern about overdrafts caused by deliveries of original issues of U.S. Treasury securities. One commenter proposed that new issues be deposited in a separate account, which would not be subject to daylight overdraft charges. The other commenter suggested that deliveries be delayed until 11 a.m.

In April 1990, the Board adopted uniform opening hours for the Fedwire funds and securities transfer systems. Concerns raised by some commenters on the uniform opening time proposal regarding funding incoming securities transfers were addressed at that time, although it is not clear that commenters had considered the full implications of the Board's 1989 proposal to charge for daylight overdrafts. Consideration is now being given to expanding Fedwire operating hours, and a request for comment on this issue appears elsewhere in today's **Federal Register**. (See Docket No. R–0778.) In the context of that proposal, the public will have an opportunity to discuss the benefits and costs of opening the book-entry securities system at the same time as the funds transfer system.

The Board understands the concerns of commenters about their inability to control daylight overdrafts caused by incoming book-entry securities transfers. The commenters' suggestion that receivers be provided time to obtain funding before securities are delivered would require a fundamental change in the design of the current book-entry securities system. The Federal Reserve is designing a new book-entry securities transfer system, however, and that design could include features that would provide receivers of incoming securities greater control over the receipt of such transfers.

With respect to overdrafts caused by the delivery of original issues of book-entry securities, the Board believes that these overdrafts, like overdrafts caused by other securities transfers, should be included in the calculation of a depository institution's daily average daylight overdraft. Currently, original issues of Treasury securities are delivered to purchasing institutions beginning at 9:15 a.m. ET. Thus, depository institutions are given some time to obtain funding before they are charged for the securities. Moreover, institutions purchasing new issues of Treasury securities are aware of the payments associated with their purchases in advance of the settlement date and should be able to arrange funding.

E. Other Transactions

Commenters on the 1991 proposal discussed a number of other transactions processed by the Reserve Banks, such as adjustments, currency and coin transactions, discount window loans, and Treasury investments.

1. *Adjustments*—Several commenters requested that adjustments for check transactions be posted before the close of Fedwire, rather than after the close of Fedwire as proposed by the Board. Other commenters indicated that adjustments should include compensation for the cost of funds as well as adjustments to daylight overdraft charges.

Although respondents to the Board's proposal focused on the treatment of adjustments for check transactions, the Board believes that similar concerns about the treatment of adjustments apply to all types of transactions processed by the Reserve Banks. Large-dollar adjustments may have a significant effect on depository institutions' intraday Federal Reserve account positions and, as pointed out by commenters, could affect daylight overdraft charges.

To address the concerns raised by commenters, the Board believes that large-dollar credit adjustments, that is, those amounting to $1 million or more, should be posted during the business day. On the other hand, depository institutions should have an opportunity to arrange funding for debit adjustments.

The Board, therefore, believes that debit adjustments should be posted after the close of Fedwire.

Because adjustments are typically processed as of the date of the original transactions, the interday value of funds is currently taken into consideration. With respect to the intraday value of funds, depository institutions are expected to manage their Federal Reserve accounts each day in a way to ensure that their use of Federal Reserve credit does not exceed their net debit caps and that their closing balance is positive. Thus, the Board believes that adjustments should only be considered in the calculation of daily average overdrafts on the day that the adjustment is found and posted to an

[13] The Board's determination does not affect clearing arrangements that use Fedwires to complete settlement, such as the Clearing House Interbank Payment System, the Depository Trust Company, the Participants Trust Company, and participants using VISA's national ACH services. The Fedwires sent and received to complete settlement would be posted as they are processed.

institution's account. At the same time, posting large-dollar credit adjustments during the business day as they are discovered and posting debit adjustments after the close of business on the day they are discovered gives depository institutions the benefit of the doubt with respect to the intraday effect of adjustments.

The Board, therefore, has determined that (1) credit adjustments amounting to $1 million or more should be posted hourly beginning at 11 a.m. ET as they are discovered during the business day and (2) small-dollar credit and all debit adjustments should be posted after the close of Fedwire.

2. *Currency and Coin Transactions*—Thirteen commenters discussed the Board's proposal to post (1) credits for currency and coin deposits on a flow basis, beginning at 11 a.m. ET and hourly thereafter until all credits have been posted on the day of deposit, and (2) debits for shipments of currency and coin after the close of Fedwire on the day the shipment is dispatched. Two commenters opposed the proposal. Some commenters indicated that there should be fewer posting times during the day. One commenter suggested that the value of currency and coin deposits did not warrant intraday posting. On the other hand, one commenter stated that credits for currency and coin deposits should be posted at time of shipment to the Federal Reserve, and another commenter requested that charges for currency shipments be delayed until the date of actual delivery.

While the value of currency and coin transactions is not significant in absolute terms for many depository institutions, survey data gathered during the four-week period ending August 23, 1989, indicated that several hundred depository institutions' overdrafts could be measurably reduced if currency and coin deposits were posted during the business day. Further, granting credit for currency and coin deposits during the business day should address some concerns raised by smaller depository institutions about the equity of Federal Reserve policies.

With respect to the manner in which credits would be posted during the business day, the Reserve Banks plan to verify currency and coin deposits as they are received. Following verification, accounting entries would be generated and sent to the Reserve Banks' Integrated Accounting System (IAS). These accounting entries would be accumulated and posted on each clock hour, beginning at 11 a.m. ET until all entries had been posted. Although posting would continue throughout the business day, many depository institutions make only one currency or coin deposit a day. As a result, they would normally receive only one credit each business day and would not be exposed to multiple posting times. For those institutions that make more than one deposit a day, the only way to reduce the number of posting times would be to delay crediting for all deposits until the last deposit was verified. The Board believes that providing credit for deposits as they are verified would benefit more institutions than it would disadvantage.

The times at which credits and debits would be posted to the accounts of depository institutions participating in the Reserve Banks' early credit/delayed debit program was not addressed in the Board's January 1991 proposal. The Board agrees with commenters that credits should be posted to the accounts of depository institutions participating in the early credit program on the day that the institution ships currency or coin to the Federal Reserve. Similarly, debits for shipments of currency and coin to the accounts of institutions participating in the delayed debit program should be posted after the close of Fedwire on the day that the institution is scheduled to receive the shipment.

The Board, therefore, has determined that credits for currency and coin deposits should be posted on the clock hour, beginning at 11 a.m. ET until all credit have been posted. Accounting entries will be posted hourly as the Reserve Banks receive and verify currency and coin deposits or receive notifications of shipments from institutions participating in the early credit program. The Board has also determined that debits for shipments of currency and coin should be posted after the close of Fedwire on the day the shipment is dispatched or, for institutions participating in the delayed debit program, on the day the shipment is scheduled to be received.

3. *Discount Window Loans*—In 1991, the Board proposed to post both credits for extensions of discount window loans and debits for their repayment after the close of Fedwire. On an exception basis, the Reserve Banks' staff would have had the option to post the credit for a loan before the close of business and to post the repayment 24 hours later.

Twelve commenters discussed the treatment of discount window loans and seven commenters supported the Board's proposal. Commenters opposing the proposal indicated that discount window loans represent large credits for small institutions and that posting such transactions after the close of Fedwire would disadvantage them. These commenters requested that posting of discount window loans be permitted at any time during the business day.

Staff also has been advised that there may be some circumstances in which depository institutions would prefer to repay discount window loans before the time at which the loan is due. In most, cases, the desire to repay early is related to a borrower's need to obtain the release of securities pledged as collateral to secure its discount window loan in time to permit transfer of the securities over the book-entry system the same day. To accommodate this need, it was suggested that, on an exception basis and where valid reasons are given, depository institutions be permitted to repay discount window loans before the time of day that the loan becomes due.

The Board continues to believe that, in an active intraday pricing environment, discount rates should represent the cost of 24-hour extensions of Federal Reserve credit, which would be comparable in term to 24-hour extensions of credit in the federal funds market. In response to the introduction of charges for intraday credit by the Federal Reserve, participants in the federal funds market presumably will begin to price 24-hour credit extensions differently from overnight extensions. In this event, the Board believes that the 24-hour federal funds rate would be most relevant to the determination of term funds rates and other money market rates and, hence, of most interest in the implementation of monetary policy. The anchor to the federal funds rate stems in part from the interaction of the System's intended level of adjustment plus seasonal borrowing with the willingness of institutions to tap the window at the prevailing discount rate. Hence, it would seem most appropriate to link the level of borrowing to a 24-hour federal funds rate by having the maturities of discount window loans be 24 hours or multiples thereof.

At the same time, the Board agrees with commenters that there may be occasions, consistent with the basic policies governing all use of Federal Reserve credit, when a depository institution should be permitted to use funds advanced through the discount window during a portion of the day on which the loan is granted. The Board also agrees that there may be some circumstances that would justify allowing repayment of a discount window loan before its scheduled maturity of 24 hours or a multiple thereof.

The Board, therefore, has determined that credits for discount window loans and debits for repayments normally should be posted after the close of Fedwire. In the occasional circumstances where a depository institution does not have ready access to money markets and must make unanticipated payments during the business day, however, the Reserve Bank may post the loan during the business day and post the repayment 24 hours later. Further, on an exception basis and where a valid reason is given, an institution may be permitted to repay a loan before it otherwise would be due. The associated debit would be posted at the same time.

4. *Treasury Investments*—All eight commenters that discussed the proposal to post advance notice Treasury investments (that is, Treasury direct and special direct investments) at the opening of Fedwire and to post same-day investments at 2 p.m. local time supported the Board's proposal. The Treasury Department, however, expressed concern that posting same-day investments at 2 p.m. local time might discourage participation in the program.

The Board acknowledges that some Treasury Tax and Loan (TT&L) depositaries may wish to invest funds in Treasury securities. Because the Fedwire securities transfer system officially closes at 2:30 p.m. ET, the Board agrees that some depositaries might be unable to invest funds based on their preferences if the Board's proposal for same-day investments were adopted. The Reserve Banks typically receive information from the Treasury Department about same-day investments between 11:30 a.m. and 12:30 p.m. ET. Because a small number of institutions participate in the program, the Reserve Banks have indicated that they would be able to post same-day Treasury investments by 1 p.m. ET. The Board, therefore, has determined that advance notice Treasury investments should be posted at the opening of Fedwire and that same-day investments should be posted by 1 p.m. ET. For practical purposes, this determination would mean that same-day investments will be posted, on a flow basis, from 12 noon through 1 p.m. ET, as Reserve Banks receive and process information from the Treasury Department.

5. *Letters of Credit*—The Board proposed to post all manual letters of credit that had been processed by 2 p.m. ET at that time and to post all remaining transactions at 5 p.m. ET. (The majority of letter-of-credit activity is processed over Fedwire and, as a result, credits are posted to recipients' accounts when the funds transfers are processed.

All eight commenters that discussed this proposal supported it. Because the payments associated with these transactions involve very large amounts and would typically be invested on the day of receipt, the Board has determined that all manual letters of credit should be posted as proposed in January 1991.

6. *State and Local Government Series—Treasury Securities (SLGs)*—SLGs are nonmarketable securities issued by the Treasury Department to state and local governments. All records of ownership are maintained on the books of the Treasury Department. SLGs may not be transferred as a result of sale or exchange nor may they be assigned or pledged.

The Board proposed to post (1) debits to the accounts of depository institutions for new issues of SLGs after the close of Fedwire on the issue date and (2) credits to the accounts of depository institutions for interest and principal payments for SLGs made via reserve account entries at the opening of business on the interest payment and redemption dates. Interest and principal payments that are made via the ACH or by means of Treasury checks would be treated like other ACH credit and Treasure check transactions.

All eight commenters that discussed the treatment of SLGs supported the Board's proposal. Because the risk faced by the Reserve Banks in handling these transactions is limited, the Board has determined to adopt its 1991 proposal for posting debits for original issues and credits for interest and redemption payments for SLGs.

F. Effect of Modifications on Depository Institutions

Because the changes to the Board's 1991 proposal for measuring daylight overdrafts do not result in significant changes in the times that payment transactions would be posted, the effect of this set of modifications would be similar to the effect of the 1991 proposal.[14]

It is clear that implementation of the modifications to the measurement proposal would require some adjustment by all institutions using Federal Reserve payment services. Survey data for the four-week period ending August 23, 1989, indicate that the elimination of intraday float would increase the level of daylight overdrafts by about $30 billion per day. The number of institutions incurring daylight overdrafts would increase by about 50 percent, and more than 400 institutions would exceed their net debit caps. Approximately 240 of the institutions with excess overdrafts, however, would be eligible for either higher caps or the exempt-from-filing status, which was implemented in January 1991. In addition, the majority of excess overdrafts are due to book-entry securities activity and are concentrated at the three New York clearing banks. Depository institutions are permitted to exceed their caps due solely to book-entry activity, provided they fully collateralize those overdrafts. As a result, these excess overdrafts would not need to be reduced due to the implementation of the modified measurement scheme.

While the number of institutions affected in a material way would not be extremely large, the majority of institutions would need to make some adjustment to the procedures they use to manage their intraday Federal Reserve account positions. In this regard, several commenters expressed concern about the Reserve Bank's ability to provide the information needed by depository institutions to make cash management decisions, monitor their intraday positions, and reconcile daylight overdraft charges.

Because a large number of institutions rely upon the Reserve Banks' ABMS to manage their intraday use of Federal Reserve credit, the ABMS is being modified to provide depository institutions account balance information reflecting (1) all transactions that have been posted to the Reserve Banks' Integrated Accounting System throughout the day and (2) balances available for transfer under the measurement scheme adopted by the Board. The first balance can be used for cash management purposes and the second balance can be used to manage the amount of intraday credit an institution uses. In addition, the Reserve Banks will provide information concerning the value of specific types of transactions processed and the time during the day that funds will be debited or credited to an institution's account. To ensure that the information services provided by the Reserve Banks satisfy the needs of the majority of depository institutions, Federal Reserve staff will survey representatives of depository institutions to determine their specific requirements and will consider those requirements in the final design of Reserve Bank information services.

Although a fairly large number of depository institutions would need to make some adjustments to manage their

[14] See 56 FR 3107, January 28, 1991.

use of Federal Reserve intraday credit under the proposal, the Board believes that the costs of these changes should be relatively low. In order to manage their intraday Federal Reserve account positions, some depository institutions may need to modify the procedures that they use to monitor their customers' intraday account balances. In particular, the determination that debits for check presentments be posted during the business day is likely to necessitate depository institutions' requiring some customers to fund check presentments earlier in the day than they do now. Further, a relatively small number of institutions may choose to modify their customer monitoring systems and develop systems to charge customers for daylight overdrafts. These institutions could incur material costs. Although implementing the modified measurement scheme would contribute to some cost increases for depository institutions, it would also place the burden associated with intraday float reduction on the parties responsible for making payments—both senders of electronic payments and issuers of checks.

Competitive Impact Analysis

Under its competitive equity policy, the Board assesses the competitive impact of changes that have a substantial effect on payments system participants.[15] Under this analysis, the Board determines whether the change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services.

The Board believes that the modified measurement scheme would permit depository institutions and private clearing groups to offer safe and effective payment services that would compare favorably with those offered by the Reserve Banks. In the case of the check collection service, depository institutions participating in private clearing houses would be able to establish the time at which net settlement entries for checks exchanged among participants would be posted to Federal Reserve accounts. Thus, the participants would be able to control the time at which credits and debits would be posted to their accounts. Correspondent banks that clear checks on behalf of respondents would be able to make payments to their respondents for any checks collected through the Federal Reserve on the availability date without incurring daylight overdrafts, provided that the timing of the payments to respondents followed the receipt of credit from the Federal Reserve. Private collecting institutions that enter into bilateral agreements with payor institutions currently are able to obtain payment for check presentments on the day of presentment and, in some cases, do not pay presentment fees to the payor institutions. At the same time, the modification to subpart A of Regulation J and the measurement procedures improve further the Reserve Bank's ability to obtain settlement for check presentments vis-a-vis some private-sector collecting institutions.

The Board's proposal to amend Regulation CC to provide same-day settlement for private-sector presentments requested comment on whether payor institutions should be obligated to settle for private-sector presentments on as timely a basis as required in the 1991 proposed modification to subpart A of Regulation J (56 FR 4743, February 6, 1991). The Board recently adopted a same-day settlement rule, and a discussion of the timing of private-sector presentments is included in Docket R–0723, elsewhere in today's Federal Register.

In the case of the ACH service, the availability of funds to receivers of ACH credit transactions would be slightly more favorable than the terms of the national ACH net settlement service. On the other hand, institutions originating ACH credit transactions would be charged earlier than they would be under the terms of the national ACH net settlement service. In the case of ACH debit transactions, funds availability under the proposal would be comparable to the terms of the national ACH net settlement service. Because there are a variety of reasons that depository institutions choose to use private-sector processors, including pricing and deposit deadlines, slight differences in the timing of credits and debits for transactions are unlikely to cause institutions to shift their transactions to the Federal Reserve's ACH.

Summary

The Board believes that the method adopted for posting check transactions during the business day addresses many of the concerns that were raised by commenters on the 1989 and 1991 proposals. At the same time, the Board acknowledges that the banking industry will incur some incremental costs in implementing the measurement scheme. The Board does not believe that the implementation and ongoing costs that will be borne by the industry will be substantial, unless a large number of institutions choose to emulate the Federal Reserve's procedures for monitoring their customers' intraday account positions. Because it is likely that depository institutions will make rational business decisions, the Board expects depository institutions to implement any changes that will be required in the most cost effective way possible and, thus, keep to a minimum potential expenditures.

The Board has determined to adopt modifications to the procedures used to measure daylight overdrafts that result in intraday accounting for non-wire transactions based on a quasi-real-time approach. In particular, depository institutions collecting checks through the Federal Reserve would have the option to receive check credits (1) at one float-weighted posting time for each of the four U.S. Time zones; or (2) based on a unique set of fractions for each time zone. The Board has also determined that debits for check presentments should be posted on the next clock hour that is at least one hour after presentment takes place, beginning at 11 a.m. ET.

Fedwire funds and book-entry securities transfers would continue to be posted as they are processed. The details of the Board's determination are outlined in Appendix 2.

Policy Statement

The Board has adopted the following to replace part (I) (A) in its "Federal Reserve System Policy Statement on Payments System Risk" under the headings "I. Federal Reserve Policy" and "A. Daylight Overdraft Definition," effective October 14, 1993:

A daylight overdraft occurs when a depository institution's Federal Reserve account is in a negative position during the business day. The Reserve Banks use an *ex post* system to measure daylight overdrafts in depository institution's Federal Reserve accounts. The procedures used result in Fedwire funds and book-entry securities transfers being posted as they are processed during the business day. Intraday accounting for automated clearing house (ACH) and non-wire transactions is based on a quasi-real-time accounting approach. The following table (the table presented in appendix 2 will be included in the policy statement) presents the detail of the procedures used by the Federal Reserve for measuring daylight overdrafts.

[15] These assessment procedures are described in the Board's policy statement entitled "The Federal Reserve in the Payments System" (55 FR 11648, March 29, 1990).

By order to the Board of Governors of the Federal Reserve System, October 6, 1992.

William W. Wiles,

Secretary of the Board.

Appendix 1—1991 Proposal for Measuring Daylight Overdrafts

Opening Balance (Previous Day's Closing Balance)

Post at the Opening of Fedwire Funds Transfer System

+/−Government and Commercial ACH Credit Transactions
+Advance Notice Treasury Investments
+Treasury State and Local Government Series (SLGs) Interest and Redemption Payments
+Treasury Checks, Postal Money Orders, Federal Reserve Bank Checks, and EZ-Clear Savings Bond Redemptions Deposited the Previous Night

Post Throughout Business Day

+/−Fedwire Funds Transfers
+/−Fedwire Book-Entry Securities Transfers
+/−Net Settlement Entries [1]

Post at 9:15 a.m. Eastern Time

−Original Issues of Treasury Securities [2]
+U.S. Treasury and Government Agency Interest and Redemption Payments

Post at 11 a.m. Eastern Time

+/−ACH Debit Transactions

Post at 11 a.m. Eastern Time and Hourly Thereafter

+/−Commercial Check Transactions, Including Return Items
+Currency and Coin Deposits

Post at 2 p.m. Eastern Time

+Processed Manual Letters of Credit [3]

Post at 2 p.m. Local Time

+Same-Day Treasury Investments

Post One Hour After Deposits Deadline (4–5 p.m. Local Time)

+Same-Day Treasury Checks, Postal Money Orders, Federal Reserve Bank Checks, and EZ-Clear Savings Bond Redemptions

Post at 5 p.m. Eastern Time

+Processed Manual Letters of Credit
+/−Same-Day ACH Transactions [4]

Post After the Close of Fedwire Funds Transfer System

+/−All Other Non-Wire Transactions (such as, Noncash, Government Coupons, TT&L Calls, Subscription for SLGs, Discount Window Loans and Repayments,[5] and Currency and Coin Shipments.)

EQUALS

Closing Balance

Appendix 2—Modified Procedures for Measuring Daylight Overdrafts [6]

Opening Balance (Previous Day's Closing Balance)

Post at the Opening of Fedwire Funds Transfer System

+/− Government and Commercial ACH Credit Transactions
+ Advance Notice Treasury Investments
+ Treasury State and Local Government Series (SLGs) Interest and Redemption Payments
+ Treasury Checks, Postal Money Orders, local Federal Reserve Bank Checks, and EZ-Clerk Savings Bond Redemptions in Separately Sorted Deposits

Post Throughout Business Day

+/− Fedwire Funds Transfers
+/− Fedwire Book-Entry Securities Transfers
+/− Net Settlement Entries [7]

Post by 9:15 a.m. Eastern Time

+ U.S. Treasury and Government Agency Book-Entry Interest and Redemption Payments
+ U.S. Treasury and Government Agency Matured Coupon and Definitive Securities Received before the Maturity Date

Post Beginning at 9:15 a.m. Eastern Time

− Original Issues of Treasury Securities [8]

Post at 11 a.m. Eastern Time

+/− ACH Debit Transactions

Post at 11 a.m. Eastern Time and Hourly Thereafter

+/− Commercial Check Transactions, Including Return Items
+/− Check Correction Amounting to $1 million or more
+ Currency and Coin Deposits
+ Credit Adjustments Amounting to $1 million or more

Post by 1 p.m. Eastern Time

+ Same-Day Treasury Investments

Post at 2 p.m. Eastern Time

+ Processed Manual Letters of Credit [9]

Post at 5 p.m. Eastern Time

+ Treasury Checks, Postal Money Orders, local Federal Reserve Bank Checks, and EZ-Clear Savings Bond Redemptions in Separately Sorted Deposits
+ Processed Manual Letters of Credit
+/− Same-Day ACH Transactions [10]

Post After the Close of Fedwire Funds Transfer System

+/− All Other Non-Wire Transactions such as, Noncash, Government Coupons [11] TT&L Calls, Subscription for SLGs, Discount Window Loans and Repayments,[12] and Currency and Coin Shipments.)

EQUALS

Closing Balance

[FR Doc. 92-24690 Filed 10-13-92; 8:45 am]

BILLING CODE 6210-10-M

City Holding Company, 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

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[1] Net settlement entries would be posted one hour after settlement data are received by the Reserve Banks.

[2] Original issues of Government agency securities are delivered as book-entry securities transfers and would be posted when the securities are delivered to the purchasing institutions.

[3] Letters of credit transactions are drawdowns of government grants.

[4] Same-day ACH transactions include ACH return items and check truncation items.

[5] In unusual circumstances if a depository institution does not have ready access to money markets and has demonstrated a need to make unanticipated payments, Reserve Banks may post the credit for a discount window loan when it is granted, provided it is repaid 24 hours later.

[6] The posting changes do not affect the overdraft restrictions and overdraft measurement provisions for nonbank banks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR 225.52).

[7] Net settlement entries will be posted on the next clock hour approximately one hour after settlement data are received by the Reserve Banks.

[8] Original issues of Government agency securities are delivered as book-entry securities transfers and will be posted when the securities are delivered to the purchasing institutions.

[9] Letters of credit transactions are drawdowns of government grants.

[10] Same-day ACH transactions include ACH return items and check truncation items.

[11] U.S. Treasury and government agency matured coupons and definitive securities received on or after the maturity date.

[12] In occasional circumstances where a depository institution does not have ready access to money markets and must make unanticipated payments, Reserve Banks may post the credit for a discount window loan when it is granted, and post the repayments 24 hours later. In addition, on an exception basis and where a valid reason is given, an institution may be permitted to repay a loan before it would otherwise be due.

any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 2, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. City Holding Company, Charleston, West Virginia; to acquire 100 percent of the voting shares of The Buffalo Bank, Eleanor, West Virginia.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Buffalo River Investment Company, Lobelville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Perry County, Lobelville, Tennessee, and Lewis County Bank, Hohenwald, Tennessee.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica, Incorporated, Detroit, Michigan; to acquire 100 percent of the voting shares of Sugar Creek National Bank, Sugar Land, Texas.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Northome Bancshares, Inc., Northome, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Northome, Northome, Minnesota.

2. West River Holding Company, Hettinger, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of West River State Bank, Hettinger, North Dakota.

Board of Governors of the Federal Reserve System, October 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24822 Filed 10-13-92; 8:45 am]

BILLING CODE 6210-01-F

First Bank System, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a previous Federal Register notice (FR Doc. 92-18638) published at page 34780 of the issue for Thursday, August 6, 1992.

Under the Federal Reserve Bank of Minneapolis, the entry for First Bank System, Inc. is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Bank System, Inc., Minneapolis, Minnesota; and Central Bancorporation, Inc., Denver, Colorado; to acquire Western Capital Investment Corporation, Denver, Colorado, and thereby acquire Bank Western, F.S.B., Denver, Colorado, and thereby engage in operating a savings association pursuant to § 225.25(b)(9); and also thereby acquire other subsidiaries engaged in making and servicing loans pursuant to § 225.25(b)(1); credit insurance activities pursuant to § 225.25(b)(8)(i); and general insurance agency activities pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y.

Comments on this application must be received by October 23, 1992.

Board of Governors of the Federal Reserve System, October 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24823 Filed 10-13-92; 8:45 am]

BILLING CODE 6210-01-F

Henry County Bancorp, Inc., et al.; Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Henry County Bancorp, Inc., Cambridge, Illinois; Iroquois Bancorp, Inc., Gilman, Illinois; Minooka Bancorp, Inc., Minooka, Illinois; Peotone Bancorp, Inc., Peotone, Illinois; Rock River Bancorp, Inc., Oregon, Illinois; Southwest Bancorp, Inc., Worth, Illinois; Terrapin Bancorp, Inc., Elizabeth, Illinois; and Westbanco, Inc., Westville, Illinois; to engage *de novo* through their subsidiary, Arizona Reconstruction Finance Company, L.L.C., Worth, Illinois, in acquiring, servicing, collecting and liquidating certain loan-related assets currently owned or originated by Founders Bank of Arizona, Scottsdale, Arizona, pursuant to §§ 225.25(b)(1) and (b)(23) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24824 Filed 10-13-92; 8:45 am]

BILLING CODE 6210-01-F

William Eugene Rowland, 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 October 29, 1992.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. William Eugene Rowland and Robert Bell Murfree, Murfreesboro, Tennessee; to acquire an additional 34.09 percent of the voting shares of First City Bancorp, Inc., Murfreesboro, Tennessee, for a total of 55.03 percent, and thereby indirectly acquire First City Bank, Murfreesboro, Tennessee.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Douglas and Debra Steffensmeier, Beemer, Nebraska; to acquire an additional 1 percent, and thereby own or control 28.6 percent; and David and Susan Steffensmeier, Beemer, Nebraska; to acquire an additional 0.9 percent, and thereby own or control 27.6 percent of the voting shares of First Beemer Corporation, Beemer, Nebraska, and thereby indirectly acquire First National Bank of Beemer, Beemer, Nebraska, and American State Bank, Homer, Nebraska.

Board of Governors of the Federal Reserve System, October 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24825 Filed 10-13-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Docket C-277]

United States Testing Company, Inc.

AGENCY: Federal Trade Commission.

ACTION: Notice of period for public comment on petition to reopen and set aside or modify the order.

SUMMARY: United States Testing Company, Inc., respondent in the order in Docket No. C-277 (said order concerning a prohibition on furnishing test reports under a corporate name or insignia using the words "United States" for third-party use in advertising to the general public), filed a petition on September 17, 1992, requesting that the Commission reopen and set aside or modify the order. This document announces the public comment period on this petition.

DATES: The deadline for filing comments in this matter is October 30, 1992.

ADDRESSES: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. Requests for copies of the petition should be sent to Public Reference Branch, room 130.

FOR FURTHER INFORMATION CONTACT: Peter Metrinko or Jonathan Cowen, Enforcement Division, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-2104 (Metrinko) or (202) 326-2533 (Cowen).

SUPPLEMENTARY INFORMATION: The order in Docket No. C-277 was published at 27 FR 12474 on December 18, 1962, reported at 61 FTC 1312. The petitioner, United States Testing Company, Inc., alleges that changes in the law since entry of the order, as well as consideration of the public interest, make reopening and setting aside or modifying the order appropriate. If the order is not set aside, the order modification requested by the petitioner would permit U.S. Testing to authorize third-party use of its corporate name and insignia in advertising to the general public, provided that disclosure is concurrently made that U.S. Testing is an independent testing company, unaffiliated with the United States Government. The petition was placed on the public record on September 30, 1992.

Donald S. Clark,

Secretary.

[FR Doc. 92-24897 Filed 10-13-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Update of Clinical Guidelines for Urinary Incontinence in Adults

The Agency for Health Care Policy and Research announces that it is establishing a panel of health care experts and consumers to update clinical practice guidelines for Urinary Incontinence in Adults and invites nominations of qualified individuals to serve as update panel members.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) added a new title IX to the Public Health Service Act (the Act), which established the Agency for Health Care Policy and Research (AHCPR) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. (See 42 U.S.C. 299-299c-6 and 1320b-12.)

As part of its legislative mandate, AHCPR is arranging for the development, periodic review, and updating of clinically relevant guidelines that may be used by physicians, other health care practitioners, educators, and consumers to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and clinically managed.

Section 912 of the Act (42 U.S.C. 299b-1(b)) requires that the guidelines be:

1. Based on the best available research and professional judgment;

2. Presented in formats appropriate for use by physicians, other health care practitioners, medical educators, medical review organizations, and consumers; and

3. Presented in treatment-specific or condition-specific forms appropriate for use in clinical practice, educational programs, and reviewing quality and appropriateness of medical care.

Section 913 of the Act (42 U.S.C. 299b-2) describes two mechanisms through which AHCPR may arrange for development of guidelines: 1. Panels of qualified health care experts and consumers may be convened; and 2. contracts may be awarded to public and private non-profit organizations. The AHCPR has elected to use the panel process for the update of the clinical practice guidelines for Urinary Incontinence in Adults.

Section 914 of the Act (42 U.S.C. 299b-3(a)) identifies factors to be considered in establishing priorities for guidelines, including the extent to which the guidelines would:

1. Improve methods of prevention, diagnosis, treatment, and clinical management, and thereby benefit a significant number of individuals;

2. Reduce clinically significant variations among clinicians in the particular services and procedures utilized in making diagnoses and providing treatments; and

3. Reduce clinically significant variations in the outcomes of health care services and procedures.

Also, in accordance with title IX of the PHS Act and section 1142 of the Social Security Act, the Administrator is to assure that the needs and priorities of the Medicare program are reflected appropriately in the agenda and priorities for development of guidelines.

Panel Nominations

The panel that will update the guidelines for Urinary Incontinence in Adults will consist of a chairperson(s) and nine to fifteen members. To assist in identifying additional members for the update panel, AHCPR is requesting recommendations from a broad range of interested individuals and organizations. The AHCPR is especially interested in receiving nominations of: (1) Persons with experience in developing clinical guidelines; (2) persons with relevant experience in basic and clinical research in urinary

incontinence in adults; (3) persons with relevant experience and clinical and technical skills needed to diagnose and treat urinary incontinence in adults, especially nurses, geriatricians, gynecologists, urologists, and family practitioners; and (4) consumers who have had personal experience with urinary incontinence in adults, either as a patient or as a family member or friend of a patient.

This notice requests nominations of qualified individuals to serve on the update panel as members. Nominees must not have a potential conflict of interest that would impair the impartial participation in development of the updated guidelines. Nominations for members of the panel will be submitted to the chairperson(s) for review and consideration. The chairperson(s) will, in turn, recommend proposed panel members to AHCPR. Appointments of the panel members will be made by AHCPR, after review of proposed members' qualifications and overall composition of the panel to ensure representation of a range of expertise and experience.

Each nomination must include a copy of the individual's curriculum vitae or resume, plus a statement of the rationale for the specific nomination. To be considered, nominations must be received by November 20, 1992 at the following address: Office of the Forum for Quality and Effectiveness in Health Care, Attn: Steven R. Moore, Agency for Health Care Policy and Research, 2101 E. Jefferson St., Rockville, MD 20852, (Telephone: 301–227–6671), (Facsimile: 301–227–8332)

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Fact Sheet, "AHCPR-Commissioned Clinical Practice Guidelines," dated January 1992 and the Program Note, "Clinical Guideline Development," dated August 1990. These documents can be obtained from the AHCPR Publications Clearinghouse, P.O. Box 8457, Silver Spring, MD 20907; or call Toll-Free: 1800–358–9295.

Also, information can be obtained by contacting Kathleen A. McCormick, Ph.D., R.N., Director, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, at the Rockville address above.

Dated: October 6, 1992.

J. Jarrett Clinton,

Administrator.

[FR Doc. 92–24856 Filed 10–13–92; 8:45 am]

BILLING CODE 4160–90–M

Alcohol, Drug Abuse, and Mental Health Administration

National Institute of Mental Health; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committees of the National Institute of Mental Health for November 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

A summary of the meetings and rosters of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301–443–4333).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Clinical Subcommittee, Mental Health Special Projects Review Committee.
Meeting Date: November 5–6, 1992.
Place: Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Open: November 5, 9–10 a.m.
Closed: Otherwise.
Contact: Gwen Artis, room 9C–08, Parklawn Building, Telephone (301) 443–1367.

Committee Name: Behavioral Subcommittee, Mental Health Special Projects Review Committee.
Meeting Date: November 15, 1992.
Place: Sheraton Inn University Center, 2800 Middleton Avenue, Durham, NC 27705.
Open: November 15, 9–10 a.m.
Closed: Otherwise.
Contact: Monica F. Woodfork, room 9C–05, Parklawn Building, Telephone (301) 443–4643.

Committee Name: Behavioral Subcommittee, Mental Health Special Projects Review Committee.
Meeting Date: November 17–18, 1992.
Place: Sheraton Inn University Center, 2800 Middleton Avenue, Durham, NC 27705.
Open: November 17, 1:30–2 p.m.
Closed: Otherwise.
Contact: Monica F. Woodfork, room 9C–05, Parklawn Building, Telephone (301) 443–4643.

Dated: October 7, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–24940 Filed 10–13–92; 8:45 am]

BILLING CODE 4160–20–M

Public Health Service

Statement of Organization, Functions, and Delegations of Authority; Office of the Assistant Secretary for Health

Part H, Public Health Service (PHS), chapter HA (Office of the Assistant Secretary for Health), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 57 FR 38844–5, August 27, 1992) is amended to reflect the transfer of the DHHS Payment Management System (PMS) from DHHS to the Public Health Service (57 FR 38911, August 20, 1992). A new Division of Payment Management with responsibility to manage the PMS is established in the Office of Resource Management, Office of Management, Office of the Assistant Secretary for Health.

Office of the Assistant Secretary for Health

Under *Chapter HA, Office of the Assistant Secretary for Health, Section HA–20, Functions, Office of Management (HAU),* delete the statement and insert the following:

Office of Management (HAU). The Office of Management: (1) Directs and coordinates all management activities of Public Health Service (PHS) nationwide; (2) advises and assists the Assistant Secretary for Health on PHS and internal management priorities and policies; (3) develops PHS policy and provides leadership ad coordination of health agency activities in the areas of financial management, contracts and grants management, manpower management, personnel management, organizational analysis, management systems and studies, administrative services, ADP management and facilities management; (4) participates in program and legislative planning and analyzes program operations, in collaboration with the Assistant Secretary for Health staff and health agencies, to identify management implications and to ensure responsible management planning and effectiveness; (5) provides leadership and review of agency management activities for the purpose of assuring compliance with the laws, regulations, departmental and PHS management policies and procedures, goals and plans; (6) advises and assists the Chief Financial Officer of all activities and reports for PHS and the Federal Manage's Integrity Act; (7) serves as the focal point for the management of the Departmentwide

Payment Management System and provides this service to other Federal agencies and departments; (8) furnishes selected supporting and staff services in financial management, personnel management, management analysis, and administrative services; (9) provides selected centralized common services, including service provided on a fee-for-service basis as authorized bylaw; (10) serves as the principal liaison between the Office of the Secretary and health agencies, and other governmental agencies on management activities and, as appropriate, represents the Assistant Secretary for Health; (11) provides oversight to assure PHS compliance with civil rights policies and requirements; and (12) provides a focal point for the public on the Privacy Act of 1974, veterans affairs, and programs for the handicapped.

After the statement for the *Division of Human Resources Information Management (HAU38)*, delete the statement of the *Office of Resource Management (HAU4)* and add the following:

Office of Resource Management (HAU4). The Director of the Office of Resource Management: (1) Serves as the principal resource for all phases of financial management inherent in the operations of the Public Health Service (PHS) nationwide; (2) plans, directs, coordinates, and evaluates financial management activities for the PHS to assure effective utilization and control of management resources, (3) formulates policies for, and makes the official fiscal allocation of resources for PHS activities in accordance with priorities based on program goals and objectives; (4) serves as the focal point for overall policy and fiscal management contracts, grants, loans and logistics activities; (5) manages the Payment Management System for the Public Health Service which pays all of the Department's grants and contracts and provides this service to other Departments; (6) plans, directs, coordinates and evaluates Chief Financial Officer (CFO) activities and reports for PHS; (7) manages the PHS Federal Manager's Integrity Act and performs the duties of the Management Control Officer (MCO) for OASH; (8) serves as PHS liaison with DHHS, central agencies and other Federal agencies on financial management activities; (9) provides leadership and direction to the PHS for the development of resource management systems; (10) monitors financial, and contracts, grants, loans and logistics programs of the PHS activities to assure a coordinated effort toward achieving the goals and objectives established by the Assistant Secretary for Health; (11) serves as the principal resource within the PHS on all phases of facility management; (12) furnishes consultant services to program officials on health facility needs; and (13) maintains liaison with the Office of the Secretary on resource management activities.

After the statement for the *Division of PHS Budget (HAU44)*, and the following title and statement:

Division of Payment Management (HAU45). The Division: (1) Manages a Payment Management System (PMS) which pays the DHHS grants and contracts and provides such services to other Departments; (2) assures timely payment to grantees and contractors and prescribes requirements for grantee and contractor reporting of expenditures and accountability of Federal cash received; and (3) operates and provides the automatic data processing (ADP) support and maintenance of the Payment Management System.

Under *Section HA.30, Delegations of Authority*, add the following.

All delegations and redelegations of authority for the management and operation of the Payment Management System which were in effect immediately prior to the date of the transfer from the Office of the Secretary, DHHS, to the Public Health Service shall continue in effect pending further redelegations consistent with this reorganization.

Dated: October 1, 1992.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 92-24820 Filed 10-13-92; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Privacy Act of 1974; Report of Revised Routine Uses

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: Addition of a new routine use and amendments to two routine uses.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to add a new routine use #28 to the system of records entitled "Supplemental Security Income Record (SSR), HHS/SSA/OR, 09-60-0103 and to revise routine use #1 in the system of records entitled "Claims Folders System, HHS/SSA/OP, 09-60-0089" and routine use #2 in the system of records entitled "Master Beneficiary Record (MBR), HHS/SSA/OSR, 09-60-0090." We are also making minor technical revisions to the systems to eliminate grammatical and typographical errors. We invite public comment on this publication.

DATES: The proposed routine use changes will become effective as proposed, without further notice on November 13, 1992, unless we receive comments on or before that date which would warrant our preventing the changes from taking effect.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, Room 3-D-1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Hanna, Social Insurance Specialist, Confidentiality and Disclosure Branch, Division of Technical Documents and Privacy, Office of Regulations, Office of Policy, Social Security Administration, 3-D-1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 410-966-7077.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Changes to Routine Uses

We propose to amend existing routine uses applicable to the Claims Folders and MBR systems. The amendments will enable SSA employees to disclose personally identifiable information from both systems to telecommunications relay system (TRS) service operators who assist Social Security claimants and beneficiaries who are hearing impaired. Also, we will add this routine use to the SSR system so that disclosures from the SSR will be consistent with disclosures from the other two systems.

Background

SSA offers TRS service nationwide on a special toll-free number. However, some hearing impaired individuals prefer to call their local SSA field office (FO) rather than the toll-free number. Since the local offices do not have their own TRS equipment, these individuals must use TRS service operators as their intermediaries in communicating with employees of the SSA FOs.

Currently, if an individual calls an FO through a TRS operator, the FO staff cannot disclose any personal information to the operator because we do not have a routine use authorizing such disclosure. We propose to remedy this situation by revising two existing routine uses.

Proposed Routine Uses Change

Routine Use #1(a) for the Claims Folders system currently provides that:

Disclosure may be made * * * to third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for or entitlement to benefits under the Social Security program when:

(a) The individual is unable to provide information being sought. An individual is considered to be unable to provide certain types of information when any of the following conditions exist:

(1) He/she is incapable or of questionable mental capacity;

(2) He/she cannot read or write;

(3) He/she cannot afford the cost of obtaining the information;

(4) A language barrier exists; or

(5) The custodian of the information will not, as a matter of policy, provide it to the individual.

Routine Use #2(a) for the MBR system is almost identical. Currently there are slight differences in punctuation, in numbering and in use of prepositions for this routine use as it appears in the Claims Folders and MBR systems of records. We are making minor changes to the wording of these routine uses so that it will be the same in both systems.

We propose adding a new condition to this list. The new condition will provide for disclosure about an individual when "he/she has a hearing impairment, and is contacting SSA by telephone through a telecommunications relay system operator." The new condition will be added to the list for the Claims Folders and MBR systems of records. We are also adding the entire routine use, including the new condition, to the SSR system of records.

II. Compatibility of Proposed Routine Uses

We are proposing the changes discussed above in accordance with the Privacy Act (5 U.S.C. 552a(a)(7)(b)(3), (e)(4) and (e)(11)) and our disclosure regulation (20 CFR part 401).

The Privacy Act permits us to disclose information about individuals without their consent for routine uses; that is, in situations where the information will be used for a purpose that is compatible with the purposes for which we collected the information. By regulation, we have determined that disclosures that are necessary to administer Social Security programs are compatible with the purposes for which we collect information (20 CFR 401.310(c)). In this situation, responding to claimants' and beneficiaries' inquiries to SSA Fos is part of our program administration. Thus, the disclosures described in the proposed changes meet the criteria in the Privacy Act for routine uses.

III. Effect of the Proposed Changes on Individual Rights

As discussed above, the proposed changes will permit SSA FO staff to disclose information, as necessary, to answer inquiries from hearing impaired persons who need to do business with SSA. This will ensure that these individuals will have equal access to SSA services as persons who are not hearing impaired.

All of the disclosures will meet statutory and SSA's regulatory requirements for disclosure. Thus, we do not anticipate that the disclosures would have an unwarranted effect on the privacy or other rights of individuals.

Dated: October 1, 1992.

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

09-60-0089

SYSTEM NAME:

Claims Folders System, HHS/SSA/OP.

SECURITY CLASSIFICATION: None.

SYSTEM LOCATION:

The claims folders in initially are established and maintained in Social Security field offices when claims for benefits are filed or a lead is expected to result in a claim. Telephone and address information for Social Security field offices may be found in local telephone directories under United States Department of Health and Human Services, Social Security Administration or under Social Security Administration. The claims are retained in field offices until all development has been completed, and then transferred to the appropriate processing center as set out below.

Supplemental Security Income (SSI) claims folders are held in Social Security field offices pending establishment of a payment record, or until the appeal period in a denied claim situation has expired. The folders are then transferred to a folder-staging facility (FSF) in Wilkes-Barre, Pennsylvania. The address is: Social Security Administration, SSI Folder Staging Operations, Wilkes-Barre Data Operations Center, PO Box 7000, Wilkes-Barre, PA 18703.

Retirement and Survivors Insurance (RSI) claims folders are maintained primarily in the Social Security Administration's (SSA's) Program Service Centers (PSC's) (contact the system manager at the address below for PSC address information). If the individual to which the claim pertains resides outside the United States or any of its possessions, the folder is maintained in the Office of Disability and International Operations (ODIO). The address for ODIO is: Social Security Administration, P.O. Box 1756, Baltimore, MD 21203.

Disability Insurance (DI) claims folders for individuals under age 59 are maintained primarily in the SSA Office of Disability Operations (ODO). The address for ODO is: Social Security Administration, Office of Disability Operations, 1500 Woodlawn Drive, Baltimore, MD 21241.

If the individual resides outside the United States or any of its possessions, DI claims folders for individuals under age 59 are maintained in ODIO (see the address above). DI claims folders for disabled individuals over age 58 are maintained in SSA's PSC's (contact the system manager for addresses).

Claims folders relating to Black Lung (BL) claims are maintained in ODIO at the following address: Social Security Administration, Office of Disability and International Operations, 1500 Woodlawn Drive, Baltimore, MD 21241.

In addition, claims folders are transferred to numerous other locations throughout the Department of Health and Human Services (HHS) and the General Services Administration (GSA) and on occasion maybe temporarily transferred to other Federal agencies.

The DI claims folders also are transferred to State agencies for disability and vocational rehabilitation determinations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants, applicants, beneficiaries and potential claimants for RSI and DI benefits; Health Insurance (HI) benefits; BL benefits or SSI payments. Folders also are maintained on claims that have been denied.

CATEGORIES OF RECORDS IN THE SYSTEM:

The claim folder is established when a claim for benefits is filed or a lead is expected to result in a claim. It contains the name and Social Security number (SSN) of the claimant or potential claimant; the application for benefits; earnings record information established and maintained by SSA; documents supporting findings of fact regarding factors of entitlement and continuing eligibility; payment documentation; correspondence to and from claimants and/or representatives; information about representative payees; and leads

information from third parties such as social service agencies, the Internal Revenue Service (IRS), the Department of Veterans Affairs (DVA) and mental institutions.

The claim folder also may contain data collected as a result of inquiries or complaints, and evaluation and measurement studies of the effectiveness of claims policies.

Separate files may be maintained of certain actions which are entered directly into the computer processes. These relate to reports of changes of address, work status, and other post-adjudicative reports. Separate files also temporarily maybe maintained for the purpose of resolving problem cases.

Separate abstracts also are maintained for statistical purposes (i.e., disallowances, technical denials, and demographic and statistical information relating to disability decisions).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 202–205, 223, 226, 228, 1611, 1631, 1818, 1836, and 1840 of the Social Security Act and sections 411 and 413 of the Federal Coal Mine and Health Safety Act, as amended by the Black Lung Benefits Act.

PURPOSE(S):

The claim folder constitutes the basic record for payments and determinations under the Social Security Act and the Federal Coal Mine Health and Safety Act. Data reused to produce and maintain the Master Beneficiary Record (09–06–0090) which is the automated payment system for RSI and DI benefits; the Supplemental Security Income Record (09–06–0103) which is the payment system for the aged, blind, and disabled payments; the Black Lung Payment system (09–60–0045) which is the payment system for BL claims; and the Health Insurance Billing and Collection Master Record system (90–70–0522) which is the payment system for HI and Supplementary Medical Insurance (Medicare) benefits.

This paper file is controlled by the SSA Claims Control system while the claim is pending development for adjudication in the field office, and by the Case Control System once the folder has been transferred to the processing center (ODIO), PSC or ODO).

The claims folders are used throughout SSA for purposes of pursuing claims; determining, organizing and maintaining documents for making determinations as to eligibility for benefits, the amount of benefits, the appropriate payee for benefits, reviewing continuing eligibility, holding hearings or administrative review processes; ensuring that proper adjustments are made based on events affecting entitlement; and answering inquiries.

The folder may be referred to State Disability Determination Services (DDS's) or vocational rehabilitation agencies in disability cases. They may also be used for quality review, evaluation, and measurement studies, and other statistical and research purposes. Extracts maybe maintained as interviewing tools, activity logs, records of claims clearance, and records of type or nature of actions taken.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for or entitlement to benefits under the Social Security program when:

(a) The individual is unable to provide information being sought. An individual is considered to be unable to provide certain types of information when:

(1) He/she is incapable or of questionable mental capability;

(2) He/she cannot read or write;

(3) He/she cannot afford the cost of obtaining the information;

(4) He/she has a hearing impairment, and is contacting SSA by telephone through a telecommunications relay system operator;

(5) A language barrier exists; or

(6) The custodian of the information will not, as a matter of policy, provide it to the individual; or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(1) His/her eligibility for benefits under the Social Security program;

(2) The amount of his/her benefit payment; or

(3) Any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement activities.

2 To third party contacts were necessary to establish or verify information provided by representative payees or payee applicants.

3. To person (or persons) on the rolls when a claim is filed by an individual which is adverse to the person on the rolls; i.e.:

(a) An award of benefits to a new claimant precludes an award to a prior claimant; or

(b) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls;

But only for information concerning the facts relevant to the interests of each party in a claim.

4. To employers or former employers for correcting or reconstructing earnings records and for Social Security tax purposes only.

5. To the Department of the Treasury for:

(a) Collecting Social Security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act (including SSN verification services); and

(b) Investigating alleged theft, forgery, or unlawful negotiation of Social Security checks.

6. To the United States Postal Service for investigating the alleged forgery, theft to run lawful negotiation of Social Security checks.

7. To the Department of Justice (DOJ) for:

(a) Investigating and prosecuting violations of the Social Security Act to which criminal penalties attach,

(b) Representing the Secretary, and

(c) Investigating issues of fraud by agency officers or employees, or violation of civil rights.

8. To the Department of State or administering the Social Security Act in foreign countries through facilities and services of that agency.

9. To the American Institute in Taiwan for administering the Social Security Act in Taiwan through facilities and services of that organization.

10. To the DVA, Philippines Regional Office, for administering the Social Security Act in the Philippines through facilities and services of that agency.

11.To the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands though facilities of that agency.

12. To the Railroad Retirement Board for administering provisions of the Social Security Act relating to railroad employment.

13. To State Social Security Administrators for administration of agreements pursuant to section 218 of the Social Security Act.

14. To State audit agencies for:

(a) Auditing State supplementation payments and Medicaid eligibility considerations; and

(b) Expenditures of Federal Funds by the State in support of the DDS.

15. To private medical and vocational consultants or use in making preparation for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by SSA or a State agency acting in accord with sections 221 or 1633 of the Social Security Act.

16. To specified business and other community members and Federal, State, and local agencies for verification of eligibility for benefits under section 1631(e) of the Social Security Act.

17. To institutions or facilities approved for treatment of drug addicts or alcoholics as a condition of the individual's eligibility for payment under section 1611(e)(3) of the Social Security Act and as authorized by regulations issued by the Special Action Office for Drug Abuse Prevention.

18. To applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue Social Security claims and to representative payees when the information pertains to individuals for whom they serve as representative payees, for the purpose of assisting SSA in administering its representative payment responsibilities under the Social Security Act and assisting the representative payees in performing their duties as payee, including receiving and accounting for benefits for individuals for whom they serve as payees.

19. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

20. In response to legal processor interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

21. To Federal, State, or local agencies (or agents on their behalf) for administering cash or noncash income maintenance or health maintenance programs (including programs under the Social Security Act). Such disclosures include, but are no limited to, release of information to:

(a) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment and for administering the Railroad Unemployment Insurance Act;

(b) The DVA for administering 38 U.S.C. 412, and upon request, information needed to determine eligibility for or amount of DVA benefits or verifying other information with respect there to;

(c) The Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act, as amended by the Black Lung Benefits Act;

(d) State welfare departments for administering sections 205(c)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about as signed SSN's for Aid to Families with Dependent Children program purposes only;

(e) State agencies for making determinations of Medicaid eligibility; and,

(f) State agencies for making determinations of food stamp eligibility under the food stamp program.

22. To State welfare departments:

(a) Pursuant to agreements with SSA for administration of State supplementation payments;

(b) for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act; and

(c) For conducting independent quality assurance reviews of SSI recipient records, provided that the agreement for Federal administration of the supplementation provides for such an independent review.

23. To State vocational rehabilitation agencies or State crippled children's service agencies (or other agencies providing services to disabled children) for consideration of rehabilitation services per sections 222(a) and 1615 of the Social Security Act.

24. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to section 233 of the Social Security Act may be disclosed to a foreign country that is a party to that agreement.

25. To IRS, Department of the Treasury, for the purpose of auditing SSA's compliance with the safeguard provisions of the Internal Revenue Code of 1986, as amended.

26. To the Office of the President for responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

27. To third part contacts (including private collection agencies under contract with SSA) for the purpose of their assisting SSA in recovering overpayments.

28. To DOJ (Immigration and Naturalization), upon request, to identify and locate aliens in the United States pursuant to section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

29. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

30. Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the GSA and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

31. To DOJ, a court or other tribunal, or another party before such tribunal when:

(a) SSA, any component thereof; or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components,

is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, the court or other tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information which is subject to the disclosure provisions of the Internal Revenue Code (IRC) (26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records generally are maintained manually in file folders. However, some records may be maintained in magnetic media (e.g., on disk and microcomputer).

RETRIEVABILITY:

Claim folders are retrieved both numerically by SSN and alphabetically by name.

SAFEGUARDS:

Claims folders are protected through limited access to SSA records. Access to the records is limited to those employees who require such access in the performance of their official duties. All employees are instructed in SSA confidentiality rules as a part of their initial orientation training.

RETENTION AND DISPOSAL:

The retention period for claims folders areas follows:

A. RSI Claims Folders

Folders for disallowed life and death, withdrawals, and lump-sum claims in which potential entitlements exist are transferred to the Federal Records Center (FRC) after being so identified and then destroyed 10 years thereafter.

Folders for awarded claims where the last payment has been made and there is no future potential claimant indicated in the record are transferred to the FRC and then destroyed 5 years thereafter.

B. DI Claims Folders

Folders for DI denial claims are transferred to the FRC after expiration of their consideration period and then destroyed 10 years thereafter.

Folders for terminated DI claims are transferred to the FRC after being identified as eligible for transfer and then destroyed 10 years thereafter.

C. SSI Claims Folders

Folders for SSI death termination claims are destroyed 2 years after resolution of possible outstanding over payments or underpayments. Folders for other SSI terminations are transferred to the FRC after termination and destroyed after 6 years, 6 months.

When a subsequent claim is filed on the SSN the claim folder is recalled from the FRC. Similarly, claims folders may be recalled from the FRC at any time by SSA, as necessary, in the administration of Social Security programs. When this occurs, the folder will be temporarily maintained in Social Security field, regional or central office.

Separate files of actions entered directly into the computer processes are shredded or destroyed by heat after 1–6 months. Claims leads that do not result in a filing of an application are destroyed 6 months after the inquirer is invited by letter to file a claim.

All paper claim files are disposed of by shredding or the application of heat when the retention periods have expired.

SYSTEM MANAGER(S) AND ADDRESS:

SSA Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record about him/her by contacting any Social Security field office.

When requesting notification, the individual should provide his/her name, SSN, the type of claim he or she filed (RSI, DI, HI, BL special minimum payments, or SSI). If more than one claim is filed, each should be identified, whether he/she is or has been receiving benefits, whether payments are being received under his or her own SSN, and if not, the name and SSN under which received, if benefits have not been received, the approximate date and place the claim was filed, and his/her address and/or telephone number. (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and avoid delay.)

An individual requesting notification of records in person need not furnish any special documents of identity. Document she/she would normally carry on his/her person would be sufficient (e.g., credit cards, drivers license or voter registration card). An individual requesting notification via mail or telephone must furnish a minimum of his/her name, date of birth and address in order to establish identity, plus any additional information specified in this section.

An individual who requests access to a medical record shall, at the time he/she makes their quest, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of or access to a minor's medical record shall at the time he/she makes the request designate a physician or other health professional (other than a family member) who will be willing to review the record and inform the parent or guardian of its contents at the physicians or health professional's discretion.

These procedures are in accordance with HHS regulations 45 CFR part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the information they are seeking. These procedures are in accordance with HHS regulations 45 CFR part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting and state the corrective actions sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate or irrelevant. These procedures are in accordance with HHS regulations 45 CFR part 5b.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from claimants, beneficiaries, applicants and recipients; accumulated by SSA from reports of employers or self-employed individuals; various local, State, and Federal agencies; claimant representatives; other sources to support factors of entitlement and continuing eligibility or to provide leads information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–60–0090

SYSTEM NAME:

Master Beneficiary Record (MBR), HHS/SSA/OSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of System Operations, 6401 Security Boulevard, Baltimore, MD 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Social Security beneficiaries who are or were entitled to receive Retirement and Survivors Insurance (RSI), or Disability Insurance (DI) benefits, including individuals who have received an RSI or DI payment since November 1978 even if their payment is not part of an ongoing award of benefits; individuals (nonclaimants) on whose earnings records former spouses apply for RSI or DI benefits; persons who are only enrolled in the Hospital and/or Supplementary Medical Insurance (SMI) programs; and claimants whose benefits have been denied or disallowed.

The system also contains short references to records for persons entitled to Supplemental Security Income payments, Black Lung benefits or Railroad Retirement Board (RRB) benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

The MBR contains information about each claimant who has applied for RSDI

benefits, or to be enrolled in the Hospital or SMI programs; a record of the amount of Federal tax withheld on benefits paid to nonresident aliens; and the aggregate amount of benefit payments, repayments and reductions with respect to an individual in a calendar year. A record is maintained under each individual's Social Security number (SSN). However, if the individual has filed on another person's SSN, only a short 'pointer' record is maintained. Personal and general data about the claim is maintained under the SSN of that claim. Data about the claimant can be accessed using the claimant's SSN or the SSN on which benefits have been awarded or claimed (claim account number (CAN)).

There are three types of data in each CAN:

Account data. This includes the primary insurance amount, insured status of the SSN holder (if no monthly benefits are payable), data relating to the computation (use of military service credits, railroad retirement credits, or coverage credits earned under the social security system of a foreign country when the claim is based on a totalization agreement), and, if only survivor's benefits have been paid, identifying data about the SSN holder (full name, date of birth, date of death and verification of date of death).

Payment data. This includes the payee's name and address, data about a financial institution (if benefits are sent directly to the institution for deposit), the monthly payment amount, the amount and date of a one-time payment of past due benefits, and, where appropriate, a scheduled future payment. Payment data can refer to one beneficiary or several beneficiaries in a combined payment.

Beneficiary data. This includes personal information (name, date of birth, sex, date of filing, relationship to the SSN holder, other SSN's, benefit amount and payment status), and, if applicable, information about a representative payee, data about disability entitlement, worker's compensation offset data, estimates and report of earnings, or student entitlement information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 202–205, 223, 226, 228, 1818, 1836, and 1840 of the Social Security Act.

PURPOSES(S):

Data in this system are used by a broad range of Social Security employees for responding to inquiries, generating followups on beneficiary reporting events, computer exception processing, statistical studies, conversion of benefits, and generating records for the Department of the Treasury to pay the correct benefit amount.

Data in this system also are available to the Department of Health and Human Services' (HHS') Inspector General for use in the performance of his/her duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To applicants or claimants, prospective applicants or claimants (other than the data subject), their authorized representatives or representative payees to the extent necessary to pursue Social Security claims and to representative payees, when the information pertains to individuals for whom they serve as representative payees, for the purpose of assisting SSA in administering its representative payment responsibilities under the Social Security Act and assisting the representative payees in performing their duties as payees, including receiving and accounting for benefits for individuals for whom they serve as payees.

2. To third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for, or entitlement to, benefits under the Social Security program when:

(a) The individual is unable to provide information being sought. An individual is considered to be unable to provide certain types of information when:

(1) He/she is incapable or of questionable mental capability;

(2) He/she cannot read or write;

(3) He/she cannot afford the cost of obtaining the information;

(4) He/she has a hearing impairment, and is contacting SSA by telephone through a telecommunications relay system operator;

(5) A language barrier exists; or

(6) The custodian of the information will not, as a matter of policy, provide it to the individual; or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(1) His/her eligibility for benefits under the Social Security program;

(2) The amount of his/her benefit payment; or

(3) Any case in which the evidence is being reviewed as a result of suspected fraud, concern for program integrity, quality appraisal, or evaluation and measurement activities.

3. To third party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

4. To a person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls, i.e.:

(a) An award of benefits to a new claimant precludes an award to a prior claimant; or

(b) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the roll; but only for information concerning the facts relevant to the interests of each party in a claim.

5. To the Department of the Treasury for:

(a) Collecting Social Security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act (including SSN verification services);

(b) Investigating the alleged theft, forgery, or unlawful negotiation of Social Security checks;

(c) Determining the Federal tax liability on Social Security benefits pursuant to 26 U.S.C. 6050, as amended by Public Law 98–21. The information disclosed will consist of the following:

(1) The aggregate amount of Social Security benefits paid with respect to any individual during any calendar year;

(2) The aggregate amount of Social Security benefits repaid by such individual during such calendar year;

(3) The aggregate reductions under section 224 of the Social Security Act in benefits which would otherwise have been paid to such individual during the calendar year on account of amounts received under a worker's compensation act; and

(4) The name and address of such individual; and

(d) Depositing the tax withheld on benefits paid to nonresident aliens in the Treasury (Social Security Trust Funds) pursuant to 26 U.S.C. 871, as amended by Public Law 98–21.

6. To the United States Postal Service for investigating the alleged theft or forgery of Social Security checks.

7. To the Department of Justice (DOJ) for:

(a) Investigating and prosecuting violations of the Social Security Act to which criminal penalties attach;

(b) Representing the Secretary of HHS; and

(c) Investigating issues of fraud by agency officers or employees, or violation of civil rights.

8. To the Department of State for administering the Social Security Act in foreign countries through services and facilities of that agency.

9. To the American Institute in Taiwan for administering the Social Security Act in Taiwan through services and facilities of that agency.

10. To the Department of Veterans Affairs (DVA), Philippines Regional Office, for administering the Social Security Act in the Philippines through the services and facilities of that agency.

11. To the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands through services and facilities of that agency.

12. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.

13. To the office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his/her behalf.

14. To the Office of Education for determining eligibility of applicants for basic educational opportunity grants.

15. To the Bureau of the Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to this system of records.

16. To the Department of the Treasury, office of Tax Analysis, for studying the effects of income taxes and taxes on earnings.

17. To the Office of Personnel Management for the study of the relationship of civil service annuities to minimum Social Security benefits, and the effects on the trust fund.

18. To State Social Security Administrators for administering agreements pursuant to section 218 of the Social Security Act.

19. To the Department of Energy for their study of the long-term effects of low-level radiation exposure.

20. To contractors under contract to the Social Security Administration (SSA) (or under contract to another agency with funds provided by SSA) for the performance of research and statistical activities directly relating to this system of records.

21. Top a congressional office in response to an inquiry from that office made at the request of the subject of a record.

22. To the Department of Labor for conducting statistical studies of the relationship of private pensions and Social Security benefits to prior earnings.

23. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

24. To Federal, State, or local agencies (or agents on their behalf) for administering income maintenance or health maintenance programs (including programs under the Social Security Act). Such disclosures include, but are not limited to, release of information to:

(a) RRB for administering provisions of the Railroad Retirement Act relating to railroad employment; for administering the Railroad Unemployment Insurance Act and for administering provisions of the Social Security Act relating to railroad employment;

(b) DVA for administering 38 U.S.C. 412, and upon request, for determining eligibility for, or amount of, veterans benefits or verifying other information with respect thereto;

(c) State welfare departments for administering sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned SSN's for Aid to Families with Dependent Children (AFDC) program purposes and for determining a recipient's eligibility under the AFDC program; and

(d) State agencies for administering the Medicaid program.

25. Upon request, information on the identity and location of aliens may be disclosed to DOJ (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating and, where appropriate, taking legal action against suspected Nazi war criminals in the United States.

26. To third party contacts (including private collection agencies under contact with SSA) for the purpose of their assisting SSA in recovering overpayments.

27. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under the routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

28. Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

29. Information may be disclosed to the Federal Reserve Bank of New York for the purpose of making direct deposit/electronic funds transfer of Social Security benefits to foreign-resident beneficiaries.

30. To DOJ, a court or other tribunal, or another party before such tribunal when:

(a) SSA, any component thereof, or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components.

is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, the court or other tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information which is subject to the disclosure provisions of the Internal Revenue Code (IRC) (26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a magnetic media (e.g., magnetic tape and magnetic disc) and in microform and paper form.

RETRIEVABILITY:

Records in this system are indexed and retrieved by SSN.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the HHS Information Resources Management Manual, "Part 6, Automated Information Systems Security Program Handbook." All magnetic tapes and discs are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized

personnel. All microform and paper files are accessible only by authorized personnel and are locked after working hours.

For computerized records, electronically transmitted between SSA's central office and field office locations (including organizations administering SSA programs under contractual agreements), safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

RETENTION AND DISPOSAL:

Primary data storage is on magnetic disc. A new version of the disk file is generated each month based on changes to the beneficiary's record (adjustment in benefit amount, termination, or new entitlements). The prior version is written to tape and retained for 90 days in SSA's main data processing facility and is then sent to a secured storage facility for indefinite retention.

Selected records also are retained on magnetic disc for on-line query purposes. The query files are updated monthly and retained indefinitely. Microform records are disposed of by shredding or the application of heat after periodic replacement of a complete file.

Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder. (See the notice for the Claims Folders System, 09–60–0089 for retention periods and method of disposal for these records).

SYSTEM MANAGER AND ADDRESS:

Director, Office of Claims and Payment Requirements, Office of System Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record about him/her by contacting the most convenient Social Security field office and providing his/her name, Social Security claim number (SSN plus alphabetic symbols), address, and proper identification. (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and avoid delay.

An individual requesting notification of records in person need not furnish any special documents of identity. Documents he/she would normally carry on his/her person would be sufficient (e.g., credit cards, driver's license, or voter registration card). An individual requesting notification via mail or telephone must furnish a minimum of his/her name, date of birth and address in order to establish identify, plus any additional information specified in this section.

These procedures are in accordance with HHS Regulations 45 CFR part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is untimely, incomplete, inaccurate or irrelevant. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

RECORD SOURCE CATEGORIES:

Data for the MBR come primarily from the Claims Folders System (09–60–0089) and/or are furnished by the claimant/beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, or marriage, are given to SSA by the beneficiary; and from States regarding HI third party premium payment/buy/in cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT: NONE.

09–60–0103

SYSTEM NAME:

Supplemental Security Income Record (SSR), HHS/SSA/OSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of System Operations, 6401 Security Boulevard, Baltimore, MD 21235.

Records also may be located in Social Security Administration (SSA) Regional and Field Offices (Individuals should consult their local telephone directories for address information).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This file contains a record for each individual who has applied for supplemental security income (SSI) payments, including individuals who have requested an advance payment; SSI recipients who have been overpaid; and each essential person associated with an SSI recipient.

CATEGORIES OF RECORDS IN THE SYSTEM:

This file contains data regarding SSI eligibility; citizenship, residence; Medicaid eligibility; eligibility for other benefits; alcoholism or drug addiction data, if applicable (disclosure of this information may be restricted by 21 U.S.C. 1175 and 42 U.S.C. 290dd–3 and ee–3); income data; resources; payment amounts, including overpayment amounts and date and amount of advance payments; living arrangements case folder location data; appellate decisions, if applicable; Social Security numbers (SSN's) used to identify a particular individual, if applicable; information about representative payees, if applicable; and, a history of changes to any of the persons who have applied for SSI payments. For eligible individuals, the file contains basic identifying information, income and resources (if any) and, in conversion cases, the State welfare number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1602, 1611, 1612, 1613, 1614, 1615, 1616, 1631, 1633, and 1634 of Title XVI of the Social Security Act.

PURPOSE(S):

SSI records begin in Social Security field offices where an individual or couple files an application for SSI payments. The application contains data which may be used to prove the identity of the applicant, to determine his/her eligibility for SSI payments and, in cases where eligibility is determined, to compute the amount of the payment. Information from the application, in addition to data used internally to control and process SSI cases, is used to create the SSR. The SSR also is used as a means of providing a historical record of all activity on a particular individual's or couple's record.

In addition, statistical data are derived from the SSR for actuarial and management information purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To the Department of the Treasury to prepare SSI and Energy Assistance checks.

2. To the States to establish the minimum income level for computation of State supplements.

3. To the following Federal and State agencies to prepare information for verification of benefit eligibility under

section 1631(e): Bureau of Indian Affairs; Office of Personnel Management, Department of Agriculture; Department of labor; Immigration and Naturalization Service; Internal Revenue Service (IRS); Railroad Retirement Board (RRB); State Pension Funds; State Welfare Offices; State Worker's Compensation; Department of Defense; United States Coast Guard; and the Department of Veterans Affairs (DVA).

4. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

5. To State crippled children's agencies (or other agencies providing services to disabled children) to identify title XVI eligibles under the age of 16 for the consideration of rehabilitation services in accordance with section 1615 of the Social Security Act.

6. To contractors under contract to SSA or under contract to another agency with funds provided by SSA for the performance of research and statistical activities directly relating to this system of records.

7. To State audit agencies for auditing State supplementation payments and Medicaid eligibility consideration.

8. To State agencies to effect and report the fact of Medicaid eligibility of title XVI recipients in the jurisdiction of those States which have elected Federal determinations of Medicaid eligibility of title XVI eligibles and to assist the States in administering the Medicaid program.

9. To State agencies to identify title XVI eligibles in the jurisdiction of those States which have not elected Federal determinations of Medicaid eligibility in order to assist those States in establishing and maintaining Medicaid rolls and in administering the Medicaid program.

10. To State agencies to enable those which have elected Federal administration of their supplementation programs to monitor changes in applicant/recipient income, special needs, and circumstances.

11. To State agencies to enable those which have elected administer their own supplementation programs to identify SSI eligibles in order to determine the amount of their monthly supplementary payments.

12. To State agencies to enable them to assist in the effective and efficient administration of the SSI program.

13. To State agencies to enable those which have an agreement with the Secretary of the Department of Health and Human Services (HHS) to carry out their functions with respect to Interim Assistance Reimbursement pursuant to section 1631(g) of the Social Security Act.

14. To State agencies to enable them to locate potentially eligible individuals and to make eligibility determinations for extensions of social services under the provisions of title XX of the Social Security Act.

15. To State agencies to assist them in determining initial and continuing eligibility in their income maintenance programs and for investigating and prosecution of conduct subject to criminal sanctions under these programs.

16. To the United States Postal Service for investigating the alleged theft, forgery or unlawful negotiation of SSI checks.

17. To the Department of the Treasury for investigating the alleged theft, forgery or unlawful negotiation of SSI checks.

18. To the Department of Education for determining the eligibility of applicants for Basic Educational Opportunity Grants.

19. To Federal, State or local agencies (or agents on their behalf) for administering cash or noncash income maintenance or health maintenance programs (including programs under the Social Security Act). Such disclosures include, but are not limited to, release of information to:

(a) The DVA upon request for determining eligibility for, or amount of, DVA benefits or verifying other information with respect thereto;

(b) The RRB for administering the Railroad Unemployment Insurance Act;

(c) State agencies to determine eligibility for Medicaid;

(d) State agencies to locate potentially eligible individuals and to make determinations of eligibility for the food stamp program; and

(e) State agencies to administer energy assistance to low income groups under programs for which the States are responsible.

20. To IRS, Department of the Treasury, as necessary, for the purpose of auditing SSA's compliance with safeguard provisions of the Internal Revenue Code of 1986, as amended.

21. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or a third party on his/her behalf.

22. Upon request, information on the identity and location of aliens may be disclosed to the DOJ (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating and, where necessary, taking legal action against suspected Nazi war criminals in the United States.

23. To third party contacts (including private collection agencies under contract with SSA) for the purpose of their assisting SSA in recovering overpayments.

24. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its program. We contemplate disclosing information under this routine use only in situations in which SSA may enter a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

25. Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

26. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:

(a) SSA, any component thereof, or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components,

is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, the court, or other tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information which is subject to the disclosure provisions of the Internal Revenue Code (IRC) (26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

27. To representative payees, when the information pertains to individuals for whom they serve as representative payees, for the purpose of assisting SSA in administering its representative payment responsibilities under the Social Security Act and assisting the representative payees in performing

their duties as payees, including receiving and accounting for benefits for individuals for whom they serve as payees.

28. To third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for or entitlement to benefits under the Social Security program when:

(a) The individual is unable to provide information being sought. An individual is considered to be unable to provide certain types of information when:

(1) He/she is incapable or of questionable mental capability;

(2) He/she cannot read or write;

(3) He/she cannot afford the cost of obtaining the information;

(4) He/she has a hearing impairment, and is containing SSA by telephone through a telecommunications relay system operator;

(5) A language barrier exists; or

(6) The custodian of the information will not, as a matter of policy, provide it to the individual; or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(1) His/her eligibility for benefits under the Social Security program;

(2) The amount of his/her benefit payment; or

(3) Any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic media (e.g., magnetic tape) and in microform.

RETRIEVABILITY:

Records are indexed and retrieved by SSN.

SAFEGUARDS:

System security for automated records has been established in accordance with the HHS Information Resources Management Manual, Part 6, Automated Information System Security Program Handbook. This includes maintaining all magnetic tapes and magnetic discs within an enclosure attended by security guards. Anyone entering or leaving that enclosure must have special badges which are only issued to authorized personnel. All authorized personnel having access to the magnetic records are subject to the penalties of the Privacy Act. The microfiche are stored in locked cabinets, and are accessible to employees only on a need-to-know basis. All SSR (State Data Exchange) records are protected in accordance with agreements between SSA and the respective States regarding confidentiality, use, and redisclosure.

RETENTION AND DISPOSAL:

Original input transaction tapes received which contain initial claims and posteligibility actions are retained indefinitely although these are processed as received and incorporated into processing tapes which are updated to the master SSR tape file on a monthly basis. All magnetic tapes appropriate to SSI information furnished to specified Federal, State, and local agencies for verification of eligibility for benefits and under section 1631(e) are retained, in accordance with the Privacy Act accounting requirements, for at least 5 years or the life of the record, whichever is longer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Claims and Payment Requirements, Office of System Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record about him/her by writing to or visiting any Social Security field office and providing his or her name and SSN. (Individuals should consult their local telephone directories for Social Security office address and telephone information.) (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and avoid delay.)

An individual requesting notification of records in person need not furnish any special documents of identity. Documents he/she would normally carry on his/her person would be sufficient (e.g., credit cards, driver's license, or voter registration card). An individual requesting notification via mail or telephone must furnish a minimum of his/her name, date of birth and address in order to establish identity, plus any additional information specified in this section.

These procedures are in accordance with HHS regulations 45 CFR part 5b.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An individual who requests notification of, or access to, a medical record shall, at the time he or she makes the request, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a minor's medical record shall at the time he or she makes the request designate a physician or other health professional (other than a family member) who will be willing to review the record and inform the parent or guardian of its contents at the physician's or health professional's discretion. These procedures are in accordance with HHS regulations 45 CFR part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate or irrelevant. These procedures are in accordance with HHS regulations 45 CFR part 5b.

RECORD SOURCE CATEGORIES:

Data contained in the SSR are obtained for the most part from the applicant for SSI payments and are derived from the Claims Folders System (09–60–0089). The States also provide data affecting the SSR (State Data Exchange Files).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 92–24891 Filed 10–13–92; 8:45 am]
BILLING CODE 4190–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Public Advisory Group; Meeting

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary, on behalf of the Exxon Valdez Oil Spill Trustee Council, is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group to be held on October 29, 1992, at 9 a.m., in the first floor conference room, 645 "G" Street, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Affairs, 1689 C Street, suite 119, Anchorage, Alaska, (907) 271-5929.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created pursuant to Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 28, 1992, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska, Civil Action No. A91-081 CV*. This initial meeting will include organizational issues and background reports on: (1) Oil Spill Restoration; (2) FY1992 and FY1993 Work Plans; (3) Habitat Protection Status; (4) Restoration Plan; (5) Environmental Impact Statement; (6) Oil Spill Symposium; and (7) Restoration Funds.

Dated: October 7, 1992.

John E. Schrote,

Assistant Secretary, Policy, Management and Budget.

[FR Doc. 92-24858 Filed 10-13-92; 8:45 am]

BILLING CODE 4310-RK-M

Privacy Act of 1974—Establishment of New Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a notice describing a Departmentwide system of records maintained by the U.S. Geological Survey and other offices and bureaus of the Department. The system of records notice is titled "Federal Financial System—Interior, OS-90" and describes financial and management records necessary to support Government accounting and financial operations. The notice is published in its entirety below.

As required by the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), the Office of Management and Budget, the Senate Committee on Governmental Affairs, and the House Committee on Government Operations have been notified of this action. 5 U.S.C. 552(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget in its Circular A-130 requires a 60-day period to review such proposals. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, U.S. Department of the Interior, Office of the Secretary (PMI), Room 2242, 1849 "C" Street NW., Washington, D.C. 20240. Comments received within 60 days of publication in the **Federal Register** (December 14, 1992), will be considered. The notice shall be effective as proposed without further publication at the end of the comment period, unless comments are received which would require a contrary determination.

Oscar W. Mueller, Jr.,

Director, Office of Management Improvement.

Dated: October 2, 1992.

INTERIOR/OS-90

SYSTEM NAME:

Federal Financial System, Interior—Office of the Secretary-90.

SYSTEM LOCATION:

(1) U.S. Geological Survey, Administrative Service Center, National Center, Reston, Virginia 22092.

(2) Bureau of Reclamation, Administrative Service Center, 7301 W. Mansfield Avenue, Lakewood, Colorado 80235-0045.

(3) Department of the Interior offices and locations which prepare, maintain and provide input documents and information for data processing and administrative actions, and which have been implemented on the system.

(4) All other Federal agencies, councils and commissions using the system under a cross-servicing arrangement, (an arrangement for the provision of computer and technical service support), with either of the Administrative Service Centers identified above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Department of the Interior; employees and former employees of other Federal agencies, councils, and commissions, persons serving without compensation to the extent authorized under 5 U.S.C. 5703, consultants, foreign participants, volunteers, contractors, and private citizen debtors and creditors who are serviced by the Department of the Interior's Administrative Service Centers. Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning corporations and other business entities, but these records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, social security numbers, tax identification numbers, expenses, vouchers, reasons for payment and debt, amounts owed and routine billing, payment, property accountability, and travel information used in accounting and financial processing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 31 U.S.C. 3512. (2) 31 U.S.C. 3711. (3) 5 U.S.C. 5701 et seq. (4) 5 U.S.C. 4111(b). (5) 41 CFR 301-304. (6) Treasury Financial Manual. (7) Public Law 97-365. (8) 26 U.S.C. 6103(m)(2). (9) 5 U.S.C. 5514. (10) 31 U.S.C. 3716.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The primary use of the records is to maintain accounting and financial information associated with the normal operations of Government organizations. Specifically, records are used for billing and follow-up, for paying creditors, to account for goods and services provided and received, to account for monies paid and received, and to process travel authorizations and claims. Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes.

Disclosures outside of the Department of the Interior, or other Government organizations cross-serviced by the Department of the Interior's Administrative Service Centers, may be made (1) To the U.S. Department of Justice, or in a proceeding before a court, or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, a Government organization being cross-serviced by the Department of the Interior, or, when requested by the Government, an employee of the Department of the Interior or one of its cross-serviced organizations, is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior, or other cross-serviced Government organization, determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, tribal, territorial, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (4) to consumer reporting agencies to facilitate collection of debts owed the

Government; (5) to disclose debtor information to the IRS, or another Federal agency or its contractor solely to aggregate information for the IRS to collect debts owed to the Federal government through the offset of tax refunds; (6) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset; (7) to any other Federal, state or local agency for the purpose of conducting an authorized computer matching program to identify and locate delinquent debtors for the recoupment of debts owed to the Department of the Interior; (8) to the State Department in connection with the application for official government employee passports; and (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; and (10) to a Federal, State, tribal, territorial, or government agency where necessary for this Department to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act [15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)].

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual, machine readable, and printout form.

RETRIEVABILITY:

Indexed by name, social security number, vendor code or number, appropriation, fund to be credited, or organization code.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained and disposed of in accordance with the Treasury Financial Manual, the National Archives and Records Administration (NARA) General Records Schedules, and NARA approved Agency Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Financial Management, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 270, Reston, Virginia 22092

Chief, Division of Finance, Bureau of Mines, Denver Federal Center, Building 20, Denver, Colorado 80225.

Chief, Division of Finance, Bureau of Land Management, Denver Federal Center, PO Box 25047, Building 50, Denver, Colorado 80225.

Chief, Accounting Operations Division, National Park Service, PO Box 4800, Reston, Virginia 22090.

Chief, Finance Division, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–007.

Chief, Division of Finance, U.S. Fish & Wildlife Service, 4401 N. Fairfax Drive, Arlington Square, Number 380, Arlington, Virginia 22203.

Deputy Chief, Division of Accounting Management, Bureau of Indian Affairs, PO Box 127, Albuquerque, New Mexico 87103.

Chief, Accounting Division, Administrative Office of U.S. Courts, 1120 Vermont Avenue, NW., Washington, DC 20544.

Director, Office of Finance, Patent & Trademark Office, One Crystal Park, Room 802A, Washington, DC 20231.

Director, Financial Management Division, Federal Labor Relations Authority, 500 C Street, SW., Room 225, Washington, DC 20424.

Director, Office of Finance and Budget, U.S. International Trade Commission, 500 E Street, SW., Room 316, Washington, DC 20436.

Director, Budget and Finance, U.S. Federal Trade Commission, 6th & Pennsylvania NW., Washington, DC 20580.

Director, Denver Administrative Service Center, 7301 W. Mansfield Avenue, Lakewood, Colorado 80235–0045.

Director, Office of Financial Management, U.S. Department of the Interior, 18th & C Streets, NW., Mail Stop 7258, Washington, DC 20240.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, employing offices, contracting officers, accounting records, standard travel and finance office documents.

[FR Doc. 92–24866 Filed 10–13–92; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

September 23, 1992.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project, Desk Officer, (1076–0047, Washington, DC 20503, telephone (202) 395–7340.

Titles: Reindeer Industry Management.

OMB Approval Number: 1076–0047.

Abstract: This information allows the Bureau to maintain records of individuals who wish to borrow reindeer from the Government for the purpose of starting a reindeer industry, determine the specific age and sex of reindeer borrowed, and to insure their proper return to the Federal Government in order that they may be held in trust for Alaska Natives.

Bureau Form Number: JO–NR–3 and JAO–1668.

Frequency: On occasion.

Description of Respondents: Individuals and tribal corporations.

Estimated Completion time: 45 minutes (.75 Hours).

Annual Responses: 40.

Annual Burden Hours: 30.

Bureau Clearance Officer: Gail Sheridan, (202) 208–2685.

Ron Eden,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 92–24777 Filed 10–13–92; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Land Management

[AZ-920-02-5420-10-ZAHB; AZA-24169]

Arizona; Application for Disclaimer of Interest

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), intends to disclaim all interest in the following described property:

Gila and Salt River Meridian, Arizona

T. 18 N., R. 24 E.,
Sec. 31, lots 3 and 4.

containing 77.89 acres in Apache County, Arizona.

Any persons wishing to submit a protest or comments concerning this disclaimer should do so in writing to the State Director, Bureau of Land Management, at the address above, before January 12, 1992. If no protest is received by January 12, 1992 the disclaimer will be issued without further notice.

FOR FURTHER INFORMATION CONTACT: Laura Wood, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640-5534.

SUPPLEMENTARY INFORMATION: It is the position of the Bureau of Land Management that the Atlantic and Pacific Railroad Company (now Santa Fe pacific Railway Company) acquired the above land from the United States pursuant to the Act of July 27, 1866 (14 Stat. 292), as amended. On September 27, 1887, the railroad conveyed the subject land to Stephen G. Little, by warranty deed recorded July 6, 1892. The Department of the Interior issued an Order which restored the land which was granted to the Railroad, back to the public domain. The Order erroneously included the subject land. A chain of title exists for the subject property which is also currently on the Apache County tax rolls.

Any person wishing to submit a protest or comments concerning this disclaimer should do so in writing to the State Director, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona, 85011, before the expiration of 90 days from the date of this publication. If no protest is received before January 12, 1992 the Disclaimer will be issued without further notice.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 92-24862 Filed 10-13-92; 8:45 am]

BILLING CODE 4310-32-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32156]

Corrected Notice of Exemption [1]

Southern Pacific Transportation Company, et al.; Merger Exemption

Southern Pacific Transportation Company (SPC) and its wholly owned subsidiaries, Northwestern Pacific Railroad Company (NWP) and Visalia Electric Railroad Company (VE), filed a notice of exemption to merge SPC's subsidiary corporations into SPC, with SPC as the surviving corporation. Under the plan of merger, SPC will acquire all of the assets and assume all liabilities and obligations of its subsidiaries. The merger will be consummated on or after October 1, 1992.

The transaction involves the merger of companies within a corporate family and is specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). The merger will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

To ensure that all employees who may be affected by the transaction are given the minimum protection under 49 U.S.C. 10505(g)(2) and 11347, the labor conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Gary A. Laakso, Southern Pacific Transportation Company, Southern Pacific Bldg., room 846, One Market Plaza, San Francisco, CA 94105.

Decided: October 2, 1992.

[1] The purpose of this corrected notice of exemption is to reflect the proper name of the Visalia Electric Railroad Company which was shown as Visalia Electric Company in the notice published in the **Federal Register** of October 8, 1992, at 57 FR 46406.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-24888 Filed 10-13-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances: Established 1992 Aggregate Production Quota

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of established 1992 aggregate production quotas.

SUMMARY: This notice establishes revised 1992 aggregate production quotas for controlled substances in Schedules I and II as required under the Controlled Substances Act of 1970.

DATES: This order is effective October 14, 1992.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On July 27, 1992, a notice of the proposed revised 1992 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (57 FR 33214). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or by (August 26, 1992).

Mallinckrodt Specialty Chemicals Company commented that the proposed revised 1992 aggregate production quotas for codeine (for sale), dihydrocodeine, hydromorphone, morphine (for sale), oxycodone (for conversion), oxycodone (for sale) and morphine (for conversion) were insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States and for the establishment and maintenance of reserve stocks. Mallinckrodt's comments were based on their initial 1992 manufacturing quotas,

1991 year-end inventories and actual and projected 1992 sales.

At this time, the DEA has determined that no increases are necessary for the established 1992 aggregate production quotas for codeine (for sale), dihydrocodeine, hydromorphone, morphine (for sale), oxycodone (for conversion), oxycodone (for sale) and morphine (for conversion).

Mallinckrodt Specialty Chemicals Company also commented that the proposed revised 1992 aggregate production quotas for hydrocodone, codeine (for conversion), and diphenoxylate were insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States and for the establishment and maintenance of reserve stocks. Taking into consideration the involved companies' 1991 year-end inventories, initial 1992 manufacturing quotas and projected 1992 sales, the final 1992 aggregate production quotas of hydrocodone, codeine (for conversion) and diphenoxylate were adjusted by the DEA to meet the medical, scientific, research and industrial needs of the United States.

Relative to dextropropoxyphene, Mallinckrodt Specialty Chemicals Company and Abbott Laboratories commented that the proposed revised 1992 aggregate production quota is insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States and for the establishment and maintenance of reserve stocks. Mallinckrodt and Abbott's comments were based on their initial 1992 manufacturing quotas, 1991 year-end inventories and actual and projected 1992 sales.

The DEA has reviewed the involved companies' 1991 year-end inventories, their initial 1992 manufacturing quotas and their actual and projected 1992 sales and has adjusted the revised 1992 aggregate production quota for dextropropoxyphene to meet the medical, scientific, research and industrial needs of the United States.

Relative to methylphenidate, MD Pharmaceutical, Inc. commented that the proposed revised 1992 aggregate production quota is insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States and for the establishment and maintenance of reserved stocks. MD Pharmaceutical, Inc 's comment was based on their initial 1992 manufacturing quota, 1991 year-end inventory and actual and projected 1992 sales.

The DEA has reviewed the involved companies' 1991 year-end inventory, their initial 1992 manufacturing quota and their 1992 actual and projected sales and has adjusted the revised 1992 aggregate production quota for methylphenidate to meet the medical, scientific, research and industrial needs of the United States.

Subsequent to the **Federal Register** publication regarding the 1992 aggregate production quotas, Arenol Chemical Corporation and The Upjohn Company requested an increase in the 1992 aggregate production quota for methamphetamine (for conversion). The Upjohn Company will close a manufacturing facility in 1993 and will be manufacturing their 1993 procurement quota during 1992. As the bulk manufacturer of methamphetamine, Arenol Chemical Corporation's 1992 manufacturing quota will have to be increased. Because of the time require to change the 1992 aggregate production quota and the economic impact in delaying the establishment of the revised 1992 aggregate production quotas, the DEA has determined that the 1992 aggregate production quota for methamphetamine (for conversion) will be revised to accommodate Arenol Chemical Corporation and The Upjohn Company's request.

Regarding amphetamine, SmithKline Beecham Pharmaceuticals commented on the proposed revised 1992 aggregate production quota. SmithKline Beecham will transfer the manufacture of a capsule formulation to another facility and estimate Food and Drug Administration's approval of their new drug application in June 1994. SmithKline Beecham feels that the proposed increase of the 1992 aggregate production quota of amphetamine does not recognize their request to manufacture enough of the capsule formulation to meet the medical needs of the United States and lawful export requirements during this time of transfer and approval.

The DEA has taken into consideration the projected sales of the capsule formulation for 1993 through 1995, the export requirements for 1993 through 1995, and the 1991 year-end inventory and has adjusted the 1992 aggregate production quota for amphetamine to allow Smithkline Beecham to manufacture enough of the capsule formulation to meet the medical needs of the United States during the transfer of their operations.

Pursuant to sections (3)(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this matter does not have sufficient Federalism implication to warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator of the DEA by § 0.100 of title 28 of the Code of Federal Regulations, the Administrator of the DEA hereby orders that the 1992 revised aggregate production quotas for Schedules I and II controlled substances, expressed as grams of anhydrous acid or base, be established as follows:

	Established revised 1992 aggregate production quota (grams)
Schedule I:	
2,5-Dimethoxyamphetamine	13,600,000
Schedule II:	
Alfentanil	7,400
Amobarbital	108,000
Amphetamine	626,000
Cocaine	356,000
Codeine (for sale)	61,171,000
Codeine (for conversion)	8,168,000
Desoxyephedrine	1,065,000
Levodesoxyephedrine	1,042,000
Methamphetamine	23,000
Dextropropoxyphene	99,774,000
Dihydrocodeine	375,000
Diphenoxylate	797,000
Hydrocodone	5,757,000
Hydromorphone	253,000
Levorphanol	6,800
Meperidine	8,714,000
Methadone	2,264,000
Methadone intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)	2,830,000
Methamphetamine (for conversion)	1,327,000
Methylphenidate	3,708,000
Morphine (for sale)	5,991,000
Morphine (for conversion	75,353,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	982,000
Oxycodone (for sale)	3,128,000
Oxycodone (for conversion)	241,300
Pentobarbital	15,019,000
Phenylacetone	2,504,000

	Established revised 1992 aggregate production quota (grams)
Secobarbital	471,000
Sufentanil	610

Dated: September 14, 1992.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 92-24852 Filed 10-13-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirements.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 219-5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3001, Washington, DC 20503 ((202) 395-6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Revision

Employment Standards Administration.

Bona Fide Profit-Sharing Plan or Trust; Disclosure Requirement.

Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations.

As the result of the February 21, 1990, Supreme Court Decision, 110 S. Ct. 929, 58 U.S.L.W. 4200, ESA is no longer seeking Office of Management and Budget (OMB) clearance for those paperwork activities involving the employer and the third party (employee) disclosure contained in 29 CFR part 549 and § 549.1(d)(2).

Employment Standards Administration.

Bona Fide Thrift or Savings Plan.

Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations.

As the result of the February 21, 1990, Supreme Court Decision, 110 S. Ct. 929, 58 U.S.L.W. 4200, ESA is no longer seeking Office of Management and Budget (OMB) clearance for those paperwork activities involving the employer and the third party (employee) disclosure contained in 29 CFR part 547.

Employment Standards Administration.

OFCCP Complaint Form.

1215-0131; CC-4.

On occasion.

Individuals or households.

2,000 respondents; 1.28 hours per respondent; 2,560 total hours; 1 form.

The complaint form is prepared by individuals who allege illegal discrmination by Federal contractors under programs administered by OFCCP. The completed form is received by OFCCP, reviewed for coverage, and where appropriate, assigned for investigation.

Occupational Safety and Health Administration.

Design of Cave-in Protection Systems—Excavations.

State or local governments; Businesses or other for-profit; Small businesses or organizations.

As a result of the February 21, 1990, Supreme Court Division, 110 S. Ct. 929, 58 U.S.L.W. 4200 OSHA is no longer seeking Office of Management and Budget (OMB) clearance of those paperwork activities involving the employer and the third party (employee) disclosure contained in 29 CFR 1926.652 (b) and (c).

Occupational Safety and Health Administration.

Diving Related Recordkeeping; Commercial Diving Operations.

States or local governments; Businesses or other for-profit; Small businesses or organizations.

As a result of the February 21, 1990, Supreme Court Decision, 110 S. Ct. 929, 58 U.S.L.W. 4200, OSHA is no longer seeking Office of Management and Budget (OMB) clearance for those paperwork activities involving the employer and the third party disclosure contained in 29 CFR 1910.420(b), 1910.423(d), and (e), 1910.430(a)(2), and 1910.440.

Occuaptional Safety and Health Administration.

Organizational Statement—Fire Brigades.

State or local governments; Businesses or other for-profit; Small businesses or organizations.

As a result of the February 21, 1990, Supreme Court Decision, 110 S. Ct. 929, 58 U.S.L.W. 4200, OSHA is no longer seeking Office of Management and Budget (OMB) clearance for those paperwork activities involving the employer the third party (employee) disclosure contained in 29 CFR 1910.156(b)(1).

Extension

Employment Standards Administration.

OWCP Representative Fee Request.

1215-0078; CA-38 (FECA); 20 CFR 702.132 (LS).

As needed.

Individuals or households; Businesses or other for-profit; Small businesses or organizations.

14,000 respondents; ½ to 1½ hours per response; 10,000 total hours; 1 form.

The Office of Workers' Compensation Programs (OWCP) requires the attorney/representative to submit requests for approval of fees charged for services provided to the claimant.

Occupational Safety and Health Administration.

Occupational Exposures to Hazardous Chemicals in Laboratories.

1218–0131.

On occasion.

Businesses or other for-profit; Small businesses or organizations.

12 respondents; .08 hours per response; 1 burden hour; 0 forms.

The purpose of this standard and its information collection requirements is to provide protection for employees from adverse health effects associated with occupational exposures to hazardous chemicals in laboratories. The standard also requires that OSHA have access to various records to ensure that employers are complying with disclosure provisions of the laboratory standards.

Departmental Management.

Supplemental Experience Statement.

1225–0010; DL 1–2034.

On occasion.

Individuals or households; Federal agencies or employees.

10,350 respondents; 90 minutes per response; 15,525 total hours; 1 form.

This form is a supplement to the basic Federal Employment Application form (SF–171) to elicit specific job-related information from applicants to assure that their qualifications are accurately, completely, and efficiently evaluated.

Employment and Training Administration.

Job Training Partnership Act Annual Status Report (JASR).

1205–0211; ETA 8580.

Annually.

State or local governments.

57 Respondents; 6,424 hours per response; 366,168 total hours; 1 form.

Job Training Partnership Act reporting is necessary for the Secretary to carry out specific responsibilities listed at sections 106, 165 and 169.

Mine Safety and Health Administration.

Rock Burst Control Plan.

1219–0097.

On occasion.

Businesses and other for-profit; Small businesses or organizations.

2 respondents; 12 hours per response; 24 total hours.

Requires metal and nonmetal mine operators to develop a rock burst control plan within 90 days after a rock burst has been experienced. Plans are required to be made available to MSHA inspectors and are used by the mine operator for work assignments to assure miner safety and to schedule correction work.

Signed at Washington, DC this 7th day of October 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92–24920 Filed 10–13–92; 8:45 am]

BILLING CODE 4510–26–M; 4510–27–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Bear Coal Company, Inc.

[Docket No. M–92–118–C]

Bear Coal Company, Inc., P.O. Box 518, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Bear No. 3 Mine (I.D. No. 05–03787) located in Gunnison County, Colorado. Due to hazardous roof and extreme wet conditions, certain areas of the mine cannot be safely traveled. The petitioner proposes to establish evaluation points to monitor the quantity and quality of air entering and leaving the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

2. Consolidation Coal Company

[Docket No. M–92–119–C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Osage No. 3 Mine (I.D. No. 46–01455) located in Monongalia County, West Virginia. Due to deteriorating roof conditions, certain areas of the mine cannot be safely traveled. The petitioner proposes to establish evaluation points to monitor the quantity and quality of air in the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

3. Eastern Associated Coal Corporation

[Docket No. M–92–120–C]

Eastern Associated Coal Corporation, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Federal No. 2 Mine (I.D. No. 46–01456) located in Monongalia County, West Virginia. Due to abandoned areas in the mine and massive falls caused by deteriorating draw slate tope, the petitioner proposes to establish evaluation points to monitor the quantity and quality of air entering and leaving the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

4. Island Creek Coal Company

[Docket No. M–92–121–C]

Island Creek Coal Company, P.O. Box 11430, Lexington, Kentucky 40575–1430 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Virginia Pocahontas No. 3 Mine (I.D. No. 44–01520) located in Buchanan County, Virginia. The petitioner proposes to mine through oil and gas wells. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

5. Black Nugget Mining, Inc.

[Docket No. M–92–122–C]

Black Nugget Mining, Inc., P.O. Box 837, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its No. 2 Mine (I.D. No. 44–03926) located in Buchanan County, Virginia. The petitioner proposes to construct a refuse fill in an area containing abandoned mine openings. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

6. Cumberland Coal Company

[Docket No. M–92–123–C]

Cumberland Coal Company, Grays Knob, Kentucky 40829 has filed a petition to modify the application of 30 CFR 75.310(b)(1) (installation of main mine fans) to its C–2 Mine (I.D. No. 15–07201) located in Harlan County, Kentucky. The petitioner proposes to use a back side or dry branch fan with the power supplied to the fan straight from the underground power supply, and branch off the power to the section with permissible fuse disconnects. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

7. Dixie Coal Company

[Docket No. M-92-124-C]

Dixie Coal Company, Grays Knob, Kentucky 40829 has filed a petition to modify the application of 30 CFR 75.310(b)(1) (installation of main mine fans) to its Dixie No. 1 Mine (I.D. No. 15-00590) located in Harlan County, Kentucky. The petitioner proposes to use a south main cut out fan with the power supplied to the fan straight from the underground power supply, and branch off the power to the section with permissible fuse disconnects. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

8. Peabody Coal Company

[Docket No. M-92-125-C]

Peabody Coal Company, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Montcoal No. 7 Mine (I.D. No. 46-01495) located in Raleigh County, West Virginia. The petitioner proposes to plug and mine through oil and gas wells. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

9. Freeman United Coal Mining Company

[Docket No. M-92-126-C]

Freeman United Coal Mining Company, P.O. Box 100, West Frankfort, Illinois 62896-0100 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) to its Orient No. 6 Mine (I.D. No. 11-00599) located in Jefferson County, Illinois.The petitioner proposes to use a vacuum contactor circuit device instead of a circuit breaker. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

10. Hubb Corporation

[Docket No. M-92-127-C]

Hubb Corporation, P.O. Box 189, Isom, Kentucky 41824 has filed a petition to modify the application of 30 CFR 75.1710-1 (canopies or cabs; self-propelled electric face equipment; installation requirements) to its Hubb No. 1 Mine (I.D. No. 15-02062) located in Perry County, Kentucky. The petitioner proposes to operate shuttle cars without canopies. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

11. Peabody Coal Company

[Docket No. M-92-128-C]

Peabody Coal Company, P.O. Box 1990, Henderson, Kentucky 42420-1990 has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Camp No. 11 Mine (I.D. No. 15-08357) located in Union County, Kentucky. The petitioner proposes to use vacuum contactor circuit devices instead of circuit breakers. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

12. Consolidation Coal Company

[Docket No. M-92-129-C]

Consolidation Coal Company, 1800 Washington, Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.305 to its Shoemaker Mine (I.D. No. 46-01436) located in Marshall County, West Virginia. Due to deteriorating roof conditions in the 1-Right off 5 North bleeder seals to the neck of the main return airway at the junction of the sealed 5 North submains, the area cannot be safely traveled. The petitioner proposes to establish check points to evaluate the quantity and quality of air leaving and entering the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure or protection as would the mandatory standard.

13. ASARCO Incorporated

[Docket No. M-92-13-M]

ASARCO Incorporated, P.O. Box 111, Sahuarita, Arizona 85629 has filed a petition to modify the application of 30 CFR 56.12001 (circuit overload protection) to its Mission Mine (I.D. No. 02-00139) located at Gila County, Arizona. The petitioner requests relief from the use of separate circuit breakers for the different motors on the P & H shovels. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

14. ASARCO Incorporated

[Docket No. M-92-14-M]

ASARCO Incorporated, P.O. Box 868, Troy, Montana 59935 has filed a petition to modify the application of 30 CFR 57.3360 to its Troy Unit Mine (I.D. No. 24-01467) located in Linclon County, Montana. The petitioner requests relief from installing ground support in the ribs of the U.Q.1 haulage drift. The petitioner asserts that the proposed alternate method would provide at least the same of protection as would the mandatory standard.

15. Magma Copper Company

[Docket No. M-92-15-M]

Magma Copper Company, P.O. Box 100, Miami, Arizona 85539 has filed a petition to modify the application of 30 CFR 56.12001 (circuit overload protection) to its Pinto Valley Operations (I.D. No. 02-01049) located in Gila County, Arizona. The petitioner requests relief from the requirement as it applies to certain circuits on its No. 2, No. 3, No. 4 and No. 5 P & H shovels. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 13, 1992. Copies of these petitions are available for inspection at that address.

Dated: October 7, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92-24921 Filed 10-13-92; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

New Mexico State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act), by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with section

18(c) of the Act and 29 CFR part 1902. On December 10, 1975, notice was published in the **Federal Register** (40 FR 57455) of the approval of the New Mexico State Plan and the adoption of subpart DD to part 1952 containing the decision.

The New Mexico State Plan provides for the adoption of Federal standards as State standards after:

1. Notice of public hearing published in a newspaper of general circulation in the State at least sixty (60) days prior to the date of such hearing.

2. Public hearing conducted by the Environmental Improvement Board.

3. Filing of adopted regulations, amendments, or revocations under the State Rules Act.

The New Mexico State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act.

By letter dated July 14, 1992, from Sam A. Rogers, Bureau Chief, to Gilbert J. Saulter, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to Federal standards as follows: 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens (56 FR 64175–64182, dated December 6, 1991); Amendments to 29 CFR 1910.109, Explosive and Blasting Agents (57 FR 6403, dated February 24, 1992); 29 CFR 1910.119, Process Safety Management of Highly Hazardous Chemicals (57 FR 6403–6417, dated February 24, 1992); and Amendments to 29 CFR 1910.110, Process Safety Management of Highly Hazardous Chemicals (57 FR 7847, dated March 4, 1992).

These standards, contained in New Mexico Occupational Health and Safety Regulations OHSR 200, were promulgated on June 25, 1992, in accordance with applicable State law.

The subject standards became effective August 8, 1992, pursuant to New Mexico State Law, Section 50–9–1 through 50–9–25.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards, and are accordingly approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor-OSHA, 525 Griffin Street, room 602, Dallas, Texas 75202; Office of the Secretary, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87501; and the Office of State Programs, 200 Constitution Ave., NW., room N3700, Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the New Mexico State Plan as proposed changes and making the Regional Administrator's approval effective upon publication for the following reasons:

1. These standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

The decision is effective October 14, 1992.

Authority: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Dallas, Texas, this 12th day of August 1992.

Gilbert J. Saulter,

Regional Administrator.

[FR Doc. 92–24919 Filed 10–13–92; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL SCIENCE FOUNDATION

Permit Issued Under the Antarctic Conservation Act of 1978

October 5, 1992.

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On August 27, 1992, the National Science Foundation published a notice in the **Federal Register** of permit applications received. A permit was issued to Dr. Joseph F. Ustach on October 2, 1992.

Thomas F. Forhan,

Permit Office, Division of Polar Programs.

[FR Doc. 92–24861 Filed 10–13–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Biological Sciences (BIO); Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: October 29, 1992; 9 a.m.–6 p.m.; October 30, 1992; 9 a.m.–12 Noon.

Place: Sheraton City Center, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, room 506, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9854.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Planning issues discussion.

Dated: October 7, 1992.

M. Rebecca Winkler,

Committee Management officer.

[FR Doc. 92–24845 Filed 10–13–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

GPU Nuclear Corp.; Jersey Central Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16 issued to GPU Nuclear Corporation, et al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would delete the auto-start logic of the Containment Spray System (CSS) by

plant modifications to be performed in the 14R refueling outage. In order to achieve this, revisions are necessary to Technical Specifications 3.1 and 3.4 Bases sections; deletion of the instrumentation requirements of Table 3.1–1 Section E; deletion of CSS from Table 4.1.2 (which lists surveillance test frequencies for Automatic Trip Systems); and deletion of the surveillance requirement of Technical Specification 4.4.C.2 for auto-start actuation test.

These changes are necessary in order to remove the auto-initiation logic from the CSS control circuits and associated interfaces with the Emergency Service Water System supply and actuation circuitry, and diesel generator block loading sequence.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated February 19, 1992.

Need for the Proposed Action

The proposed changes to the Facility Operating License are needed because it would resolve an identified potential safety concern involving single failure criteria as applied to the CSS auto-initiation logic.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to delete the auto-start logic of the CSS by plant modifications to be performed in the 14R refueling outage.

Based on its review, the Commission concludes that the proposed changes are acceptable and fulfills GPU Nuclear Corporation's commitment to the NRC made in LER 86–023 which was to evaluate and implement the proposed modification which mitigates a potential safety concern involving single failure criteria as applied to the containment spray system auto-initiation logic. The Commission has determined that the proposed changes do not alter any initial conditions assumed for the design basis accidents previously evaluated nor change operation of safety systems utilized to mitigate the design basis accidents.

The proposed changes do not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the Technical Specifications involve components in the plant which are located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concludes that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated February 19, 1992, which is available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland this 5th day of October 1992.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–24855 Filed 10–13–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–443]

North Atlantic Energy Service Corp., Seabrook Station, Unit No. 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the schedular requirements of appendix E, section VI(4)(d) of 10 CFR part 50 to North Atlantic Energy Service Corporation (NAESCO, the licensee), for operation of the Seabrook Station, Unit No. 1, located in Rockingham County, New Hampshire.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption from the requirement of appendix E, section VI(4)(d) of 10 CFR part 50 to complete installation of the Emergency Response Data System (ERDS) by February 13, 1993. By letter dated October 28, 1991, the licensee requested an exemption from appendix E, section VI(4)(d) of 10 CFR part 50 that would defer the installation of the ERDS because of a planned replacement of the main plant computer system (MPCS). The licensee's plan calls for incorporating the ERDS into the MPCS, which will be installed during the third refueling outage currently scheduled to begin in March 1994, and will be implemented no later than December 1, 1994.

The Need for the Proposed Action

Section VI(4)(d) of appendix E, 10 CFR part 50, requires the licensee to complete implementation of the ERDS by February 13, 1993, or before initial escalation to full power, whichever comes later. The proposed exemption is required in order to allow the licensee to complete a change-out of the computer system which drives the ERDS. The change-out is to be completed during the third refueling outage scheduled to begin March 1994 and will be implemented no later than December 1, 1994.

Environmental Impacts of the Proposed Action

The ERDS is a direct near real-time electronic data link between the licensee's onsite computer system and the NRC Operations Center that provides for the automated transmission of certain data, supplementing the voice transmission over the Emergency Notification System in the event of an emergency. The proposed exemption affects only the licensee's required date for implementing its ERDS. It does not

significantly affect emergency preparedness, plant operations or risk of accidents. Thus, post-accident radiological releases will not differ from those determined previously, and the proposed exemption does not otherwise affect facility radiological effluents, or any significant occupational exposures. With regard to potential nonradiological impacts, the proposed exemption does not affect plant nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes that there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to require an earlier date for the implementation of the ERDS. Such an action would not enhance the protection of the environment.

Alternate Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Seabrook Station, Units 1 and 2, dated December 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letter dated October 28, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Dated at Rockville, Maryland, this 6th day of October, 1992.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-24854 Filed 10-13-92; 8:45 am]

BILLING CODE 6560-50-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 or NRC staff) 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 September 21, 1992 through October 1, 1992. The last biweekly notice was published on September 30, 1992 (57 FR 45074).Notice Of Consideration Of Issuance Of Amendment To Facility Operating Licence, Proposed No Significant Hazards Consideration Determination, And Opportunity For A 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 Rules and Directives Review 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. Federal workdays. 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 13, 1992, 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 N1023 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.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station,Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: August 18, 1992, as supplemented by letter dated September 2, 1992

Description of amendment request: The proposed amendment to the Operating License would add a License Condition to extend the performance interval for certain surveillance requirements to 24 months from 18 months. The extension would be applicable only to those 18 month surveillances that would be due to be performed at the end of Cycle 9. The extension will permit optimum fuel burnup before the next scheduled refueling outage. That refueling outage originally was planned to start in February 1993, but because of delay experienced with completing the previous refueling outage and 6 weeks of unscheduled outage, the next refueling outage has been rescheduled to begin April 12, 1993.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed License Condition merely extends the allowable interval between certain required surveillances. The maximum surveillance interval extension while the plant is at power will be less than 3 months. This does not result in a significant reduction in the expected reliability of plant components. The proposed change, therefore, does not significantly increase the probability of any previously

evaluated accident and has no effect upon their consequences.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because it does not affect the manner by which the facility is operated. The proposed change merely increases the allowable interval between certain required surveillances.

C. The change does not involve a significant reduction in a margin ofsafety (10 CFR 50.92(c)(3)) because the proposed change does not affect the manner by which the facility is operated or involve changes to equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three criteria of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Dockets Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit No. 1 and Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: August 24, 1992

Description of amendment request: The proposed amendments would revise Appendix A Technical Specification Surveillance Requirement (SR) 3.7.12 for both units. The revision would replace the existing requirements for snubber visual inspection schedules and other requirements with the alternate surveillance requirements endorsed by the Commission's Generic Letter 90-09 issued December 11, 1990, "Alternate Requirements for Snubber Visual Inspection Intervals and Corrective Actions." Additionally for Unit 2 only, the functional test acceptance criteria will be revised to be identical to those criteria for Unit 1. Certain other administrative changes are made to maintain document consistency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The changes do not involve a significant increase in the probabilityor consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed alternate schedule for visual inspections will maintain the same confidence level as the existing schedule. This change will allow the inspections to be conducted during plant refueling thereby reducing occupational radiation exposure. Visual inspection of snubbers is a process separate from functional inspection and provides additional confidence of snubber operability. The change to the functional acceptance criteria for Unit 2 will provide specific acceptance criteria for hydraulic and mechanical snubbers to more accurately reflect the testing done on the different types of snubbers. This change improves the functional test acceptance criteria. These changes have no effect upon the probability or consequences of any previously evaluated accident.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because they do not affect the manner by which the facility is operated. The proposed changes merely provide for a different schedule for visually inspecting snubbers, and improve the acceptance criteria to more accurately reflect the functional testing performed.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not affect the manner by which the facility is operated or involve equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three criteria of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Dockets Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit No. 1 and Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: September 2, 1992

Description of amendment request: The proposed change would modify Note 3 to Table 4.3-1 to indicate that the required surveillance frequency for comparing incore and excore axial imbalance is at least once per 31 effective full power days vice monthly which is defined as 31 days. This change would make the required surveillance interval of Surveillance Requirement (SR) 4.3.1.1.1 consistent with other SRs which require flux maps.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed change merely ensures that all surveillances that require flux maps on a regular basis are performed at the same frequency. This eliminates unnecessary flux maps that otherwise would be necessary to satisfy the one surveillance with a monthly frequency. The change has no effect upon the probability or consequences of any accident.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because it does not affect the manner by which the facility is operated or involve changes to equipment or features which affect the operational characteristics of the facility. The proposed change merely places all surveillances requiring flux maps at the same frequency.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed change does not affect the manner by which the facility is operated or involve changes to equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three criteria of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts &

Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: September 14, 1992

Description of amendment request: The amendment proposes the deletion of various lists of components from the Technical Specifications (TS) in accordance with the requirements of Generic Letter 91-08. The lists removed from the TS will be incorporated into plant procedures subject to the administrative controls of TS 6.8 and 6.5.3.

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 proposed changes would result in the revision or deletion of specified tables from the Technical Specifications (TS), as well as modification of TS and Bases wording as recommended by Generic Letter (GL) 91-08. The tables to be deleted list plant components required to function to mitigate the consequences of accidents and/or protect other plant equipment needed to perform this function. The component lists affected are: Containment and Drywell Isolation Valves (Table 3.6.4-1); Secondary Containment Ventilation System Automatic Isolation Dampers/Valves (Table 3.6.2-1); Primary Containment Penetration Conductor Overcurrent Protective Devices (Table 3.8.4.1-1); and, Motor Operated Valves Thermal Overload Protection (Table 3.8.4.2-1). In addition, Tables 3.3.2-1 and 3.3.2-2, along with the wording of several TS Definitions, Limiting Conditions for Operation (LCOs), Surveillance Requirements, and Bases are modified to reflect administrative changes resulting from removal of specific references to the deleted component tables.

Surveillance and operability requirements are incorporated into the TS to ensure that these components are available to perform their design functions. The restrictions and actions imposed by these requirements are not being relaxed or revised by the proposed changes in any way. The only changes made to the language of the TS are those recommended by GL 91-08 to ensure that the scope of each specification is clear and any plant specific features are retained. Accident analyses which rely on these components are not affected. There will be no modifications to plant equipment as a result of the proposed changes. Plant procedures will be revised only as necessary to reflect relocation of the table information. Any changes to the component information moved to plant procedures will be accomplished in accordance with the administrative controls required by TS 6.8 and 6.5.3. These controls ensure that there will be no increase in the probability or consequences of previously evaluated accidents without prior NRC approval.

Therefore, no significant increase in the probability or consequences of an accident previously evaluated results from these changes.

2. This change would not create the possibility of a new or different kind of accident from any previously analyzed.

The relocation of information from TS tables into plant procedures serves only to consolidate information on affected components outside of the TS for control under appropriate administrative requirements. This is done in accordance with the guidance of GL 91-08. The proposed revisions to the TS do not involve a change in the manner in which these components will be operated, maintained, or monitored. No components or systems are physically added, removed, or modified as a result of the proposed changes.

Therefore, the possibility of a new or different kind of accident from any previously analyzed is not created.

3. This change would not involve a significant reduction in the margin of safety.

The proposed revisions are being requested as a line item improvement to the Grand Gulf Nuclear Station (GGNS) TS to reduce the administrative burden on the NRC and GGNS when revisions to the subject component information becomes necessary. They are consistent with the guidance associated with these component lists is unaffected by this proposed change since the operability and surveillance requirements applicable to these components are not being revised except administratively as recommended by the Generic Letter. In addition, the Updated Final Safety Analysis Report ensures that changes made to the information are reviewed in accordance with the controls of TS 6.8 and 6.5.3, which allow no decrease in the margin of safety without prior NRC approval.

Therefore, the proposed change will not involve a significant reduction the margin of safety.

Based on the above evaluation, GGNS has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

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

Entergy Operations Inc., Docket No. 50-382, Waterford Steam ElectricStation, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 2, 1992

Description of amendment request: The proposed amendment would revise the Technical Specifications to change the Plant Operating Review Committee (PORC) composition to reflect a reorganization change. The Plant Engineering Superintendent position has been eliminated and Waterford 3 will substitute one of the managers from the plant engineering groups as a member.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change has no effect [on] the assumptions contained in the safety analysis. The Technical Specifications which preserve the safety analysis assumptions are likewise unaffected by the proposed change. Therefore, the proposed change will not result in any increase in the probability or consequences of any accident previously evaluated.

The proposed change is administrative in nature and will not alter operation of the plant or effectiveness of PORC. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Waterford 3 safety margins are defined and maintained by the Technical Specifications in Sections 2-5 which are unaffected by the proposed change. Therefore, the proposed 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 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: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: August 21, 1992

Description of amendment request: These proposed amendments would

make administrative changes to the St. Lucie Unit 1 and Unit 2 Technical Specifications (TS) to achieve consistency throughout the TS by removing outdated material, making minor text changes, and correcting errors.

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.

Administrative changes to the Technical Specifications do not affect assumptions in plant safety analysis, nor do they affect Technical Specifications that preserve safety analysis assumptions. The corrections and clarifications referenced in [these] proposed license amendment[s] do not affect the probability or consequences of accidents previously analyzed.

2. Operation of the facility in accordance with [these] proposed license amendment[s] would not create the possibility of a new or different kind of accident previously evaluated.

A new or different kind of accident is not created since Technical Specification Limiting Conditions for Operation (LCO) and ACTION statement requirements remain unchanged.

The administrative changes to the Breathing Air System being proposed by FPL will not lead to material procedure changes or to physical modifications to the St. Lucie Plant. The Breathing Air System proposed modification was not completed due to budgetary considerations. The Technical Specifications are being returned to those that existed prior to the proposed modification. Minor valve numbering corrections are being made. Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

3. Operation of the facility in accordance with the proposed amendment[s] would not involve a significant reduction in a margin of safety.

The changes being proposed do not relate to or modify the safety margins defined in and maintained by the Technical Specifications. Therefore, the proposed changes would not involve any reductions 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: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

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 amendment request: September 18, 1992

Description of amendment request: The proposed amendments would revise *Facility Operating License Nos.* DPR-57 and NPF-5, currently held by Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the Owners) to allow Southern Nuclear Operating Company, Inc. (hereafter called Southern Nuclear) to become the operator of Hatch, Units 1 and 2. Southern Nuclear would become the exclusive operating licensee, to possess, manage, use, operate, and maintain the facility. Georgia Power Company is the current operator of the facility. The proposed action would involve no change in ownership. The current Owners would remain on the licenses as licensed owners and would continue to own the assets of the facility in the same percentages as now. Southern Nuclear would have no entitlement to power output from Hatch or authority to dispatch, broker or market the energy generated.

As described in the application, Georgia Power Company and Southern Nuclear are wholly owned subsidiaries of the Southern Company. After receiving the necessary order from the Securities and Exchange Commission in December 1990, Southern Company incorporated Southern Nuclear for the purpose of consolidating personnel within the Southern Electric System engaged in nuclear operations. Georgia Power Company states that there would be no significant change in nuclear personnel or support organizations, and that, once the proposed amendments become effective, the on-site organization responsible for operations of the Hatch facility would be transferred intact to Southern Nuclear. Prior to approving this license amendment, the NRC staff will examine the proposed operating agreement and other documents relevant to this license amendment application.

The transfer of any right under the operating licenses is subject to NRC approval pursuant to 10 CFR 50.80(a). Such approval is proposed to be given through an Order approving this transfer.

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, are presented below:

1. The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated. Southern Nuclear will employ, or contract as necessary, all technically qualified personnel necessary to become responsible for possession, management, operation, use, and maintenance at HNP [Hatch Nuclear Plant]. Therefore, it follows that the technical qualifications of employees of Southern Nuclear and its contractors will be consistent with those of Georgia Power Company presently. Personnel qualifications will remain the same as those discussed in the Technical Specifications and the FSAR.

The Georgia Power Company employees engaged in the operation of the plant will be reassigned to Southern Nuclear. The organizational structure of Southern Nuclear will provide for clear management control and effective lines of authority and communication between the organizational units involved in the management, operation, and technical support for the operation of the facility.

As a result of the proposed changes, there also will be no physical changes to the facility and all Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications will remain unchanged. With the exception of administrative changes to reflect the organization of Southern Nuclear, the emergency plan, security plan, QA program and training program will be unaffected. Provisions will also be made for an orderly transfer of emergency preparedness and security support agreements. Contractual agreements will ensure continued compliance with General Design Criterion 17 as well as Southern Nuclear control over all activities within the exclusion area.

Therefore, the proposed change will not significantly increase the probability or consequences of an accident previously evaluated. In fact, due to the opportunity for increased management focus on nuclear operations afforded by this proposed amendment, the amendment will actually enhance public safety.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. The design and design bases of the plant remain the same. Therefore, the current plant safety analysis remains complete and accurate in addressing the licensing basis events and analyzing plant response and consequences.

The Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits are not affected by the proposed change. With the exception of administrative changes to reflect the organization of Southern Nuclear, plant operating and

emergency procedures are unaffected. As such, the plant conditions for which the design basis accident analyses have been performed are still valid. Therefore, the proposed change will not create the possibility of a new or different kind of accident than those previously evaluated.

3. The proposed change will not involve a significant reduction in a margin of safety. Since there will be no change to the physical design or operation of the plant, there will be no change to any margins. Further, the only changes to the Technical Specifications which have been proposed are to reflect the organization of Southern Nuclear. The proposed amendment therefore 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 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: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

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 amendment request: February 28, 1992, as supplemented June 26 and August 28, 1992

Description of amendment request: The proposed amendments would change the value used in Technical Specification (TS) 1.27 for the definition of rated thermal power (RTP) from 3411 megawatts thermal (MWt) to 3565 MWt. Similarly, the maximum power level authorized by Section C.(1) of the Vogtle operating licenses would be changed from 3411 MWt to 3565 MWt.

Operation at the revised power level would result in a slight increase in the steam flow at RTP. Thus, the second sentence of the second paragraph of TS Bases 3/4.7.1.1 "Safety Valves" would be changed to state: "The total relieving capacity for all valves on all of the steam lines is 18,607,220 lbs/h which is 117 percent of the total secondary steam flow of 15.92 x 10^6 lbs/h at 100% RATED THERMAL POWER." The same relieving capacity is currently stated to be "123% of the total secondary steam flow of 15,135,453 lbs/h" at 100% RTP.

Operation at the proposed RTP level would also require a change to the value of the statistical summation of errors assumed in the setpoint calculation for the overtemperature delta temperature (OTDT) reactor trip function, and a change to the value of the power distribution reset function for OTDT. Specifically, the value of "Z" for the OTDT function given in TS Table 2.2-1 "Reactor Trip System Instrumentation Trip Setpoints" reflects the statistical summation of errors and would change from 7.04% of span to 8.8% of span. Note 1 to TS Table 2.2-1 currently states, in part, that "For each percent that the magnitude of $q_t - q_b$ exceeds + 11%, the Delta T Trip Setpoint shall be automatically reduced by 1.97% of its value at RATED THERMAL POWER." The proposed amendments would change these Note 1 values of 11.0% and 1.97% to 10.0% and 2.7%, respectively. Note 2 of TS Table 2.2-1, which is referenced for the allowable value of the trip setpoint for the OTDT function, states that "The channel's maximum Trip Setpoint shall not exceed its computed Trip Setpoint by more than 3.1% of Delta T span." This percentage of Delta T span would be reduced from 3.1% to 1.5%.

TS Bases 3/4.6.1.4 "Primary Containment Internal Pressure," 3/4.6.1.5 "Primary Containment Air Temperature," and 3/4.6.1.6 "Primary Containment Structural Integrity," would be changed to indicate that the maximum peak containment pressure was calculated to occur as a result of a loss-of-coolant accident (LOCA) instead of a steam line break accident. The change would indicate that the new analyses assumed an initial containment pressure of 3 psig instead of 0.3 psig and resulted in a peak calculated pressure of 36.5 psig instead of 41.9 psig.

Basis for proposed no significant hazards consideration determination: Although the current licensed core power level is 3411 MWt, all safety systems at Vogtle, including the containment and engineered safety features, were originally designed for operation at a higher core power level of 3565 MWt. The proposed amendments would authorize operation of Vogtle Units 1 and 2 at this higher core power level. The licensee has performed evaluations and reanalyses using existing safety, functional, and structural criteria to demonstrate that Vogtle can safely operate at the higher power level without modifications. Some of the reanalyses are included with the licensee's current application for amendments, but several of the reanalyses were previously submitted to support prior amendments. These prior amendments include Amendments 43 and 44 for Unit 1 and Amendments 23 and 24 for Unit 2 that authorized use of Westinghouse's VANTAGE-5 fuel, and Amendments 51 (Unit 1) and 30 (Unit 2) that reduced the minimum required thermal design flow.

The safety analyses which rely on the OTDT reactor trip for mitigation of the transient do not take credit for the Z value or the setpoint reduction adjustment of TS Note 1 to Table 2.2-1. These items assure that the OTDT setpoint is set conservatively relative to the safety analyses. The licensee finds that the reduction in the allowable variance is bounded by the previous setpoint calculation and does not affect the OTDT setpoint assumed in the safety analyses. The licensee also evaluated the margin to the OTDT reactor trip setpoint for steady-state full power operation at the proposed RTP level and found that the current margins for OTDT reactor trip and turbine runback remain valid.

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 increase in RTP does not involve a significant increase in the probability or consequences of an accident previously evaluated because operation at higher RTP will not cause any design or analysis acceptance criteria to be exceeded. As a result, structural and functional integrity of the plant systems is maintained. Rated thermal power is an input assumption to the equipment design and accident analyses, but it is not itself an initiator for any transient. Therefore, the probability of occurrence is not affected.

The radiological consequences of operation at the uprated conditions have been assessed as part of the VANTAGE-5 fuel program. It was concluded that offsite dose predictions remain within the acceptance criteria for each of the transients affected. Therefore, the consequences of an accident previously evaluated are not increased.

The revised OTDT reactor trip function does not involve a significant increase in the probability or consequences of an accident previously evaluated because operation with these revised values will not cause any design or analysis acceptance criteria to be exceeded. The structural and functional integrity of any plant system is unaffected. The OTDT reactor trip is part of the accident mitigation response and is not itself an initiator for any transient. Therefore, the probability of occurrence is not affected.

The changes to the OTDT reactor trip function do not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. In addition, the offsite mass releases used as input to the dose calculations are unchanged from those previously assumed. Therefore, the offsite

dose predictions remain within the acceptance criteria for each of the transients affected. Since it has been determined that the transient results are unaffected by these setpoint modifications, it is concluded that the consequences of an accident previously evaluated are not increased.

2. The increase in RTP does not create the possibility of a new or different kind of accident from any accident previously evaluated because no new operating configuration is being imposed that would create a new failure scenario, and no new failure modes are being created for any plant equipment. System and component design bases have been reviewed to determine that the different cyclic temperature transients resulting from uprating do not significantly affect the fatigue life of the equipment. Therefore, the types of accidents defined in the FSAR [Final Safety Analysis Report] continue to represent the credible spectrum of events to determine safe plant operation.

The revised OTDT reactor trip function does not create the possibility of a new or different kind of accident from any accident previously evaluated because the setpoint adjustments do not affect accident initiation sequences. No new operating configuration is being imposed by the setpoint adjustments that would create a new failure scenario. In addition, no new failure modes are being created for any plant equipment. Therefore, the types of accidents defined in the FSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

3. The increase in RTP does not involve a significant reduction in a margin of safety because RTP is one of the inherent assumptions that determines the safe operation range defined by the accident analyses, which are in turn protected by the Technical Specifications. The acceptance criteria for the accident analyses are conservative with respect to the operating conditions defined by the Technical Specifications. The work performed for the VANTAGE-5 fuel program and the work presented [as part of the licensee's application for amendments]... confirms that the accident analyses criteria are met at the revised value of RTP. Therefore, the adequacy of the revised Technical Specifications to maintain the plant in a safe operating range is also confirmed, and the increase in RTP does not involve a significant reduction in a margin of safety.

The changes to the OTDT trip function do not involve a significant reduction in a margin of safety because the margin of safety associated with the OTDT reactor trip function, as verified by the results of the accident analyses, is within acceptable limits. The work performed for the VANTAGE-5 fuel program and power uprating confirms that the accident analyses criteria are met. The required margin of safety regulated for each affected safety analysis is maintained. This conclusion is not changed by the OTDT setpoint modifications. The adequacy of the revised Technical Specifications values to maintain the plant in a safe operating range has been confirmed. Therefore, the changes to the OTDT reactor trip function do 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 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: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30303-1810.

NRC Project Director: David B. Matthews

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 amendment request: September 17, 1992

Description of amendment request: On May 21, 1991, the NRC published in the **Federal Register** (56 FR 23360) a revision to its standards for protection against radiation, including the requirements of 10 CFR 20, Sections 20.1001 through 20.2401 (hereafter called the new 10 CFR 20). The proposed amendments would revise the Technical Specifications (TSs) in accordance with the new 10 CFR 20.

The NRC has previously published a notice (56 FR 37565, August 19, 1992), of an amendment request that would implement changes to the Vogtle TSs identified by the NRC's Generic Letter (GL) 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications (RETS) in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP)." As discussed below, the licensee's application of September 17, 1992, supplements and revises some of the changes identified by the previous notice.

To implement the new 10 CFR 20 requirements, the licensee proposes the following nine changes:

1. The definitions of MEMBER(S) OF THE PUBLIC in TS 1.18 and UNRESTRICTED AREA in TS 1.39 would be changed to be consistent with their definitions in the new 10 CFR 20.1003.

2. Footnote c to TS Table 3.3-3, "Engineered Safety Features Actuation System Instrumentation Trip Setpoints," is referenced for the required setpoint values for Containment Radiation instrumentation and Fuel Handling Building Exhaust Duct Radiation Signal instrumentation. Footnote c currently states that these setpoints will not exceed the limits of TS 3.11.2.1. This would be changed so as not to exceed the limits of TS 6.7.4.f.7 (discussed by proposed change 6 below).

3. TS Bases 3/4.11.1.4 would be modified to state that in the event of an uncontrolled release of radioactive effluent liquid from the outside temporary holdup tanks, the resulting concentration would be less than the effluent concentration limits (ECL) of the new 10 CFR 20.1302(b)(2)(i), instead of the limits specified in the old 10 CFR 20, Appendix B, Table II, Column 2, which are based on maximum permissible concentration (MPC) values.

4. In 56 FR 37565, the NRC identified several proposed changes associated with GL 89-01, including a change to "incorporate programmatic controls in the Administrative Controls section of the TS that satisfy the requirements of 10 CFR 20.106." The licensee's proposed changes of September 17, 1992, include changes to ensure that the programmatic controls that would be added to the ODCM would be based upon the new 10 CFR 20. Thus, TS 6.7.4.f.2 would be changed to require that the program for radioactive effluent control include, in part, "Limitations at all times on the concentrations of radioactive material released in liquid effluents to UNRESTRICTED AREAS conforming to ten times the concentrations stated in 10 CFR 20, Appendix B (to paragraphs 20.1001 through 20.2401), Table 2, Column 2." The licensee states that this change accommodates needed operational flexibility to facilitate implementation of the new 10 CFR 20 requirements.

5. References regarding dose limits for individual members of the public in TSs 6.7 and 6.13 would be revised to incorporate the new 10 CFR 20 reference to paragraph 10 CFR 20.1302, instead of the current reference to paragraph 10 CFR 20.106.

6. The programmatic controls to be added to the ODCM (discussed in item 4 above) would also include a proposed TS 6.7.4.f.7 identifying the following program element: "Limitations at all times on the concentrations of radioactive material released in gaseous effluents to areas beyond the SITE BOUNDARY conforming to ten times the concentrations stated in 10 CFR Part 20. Appendix B (to paragraphs 20.1001 through 20.2401), Table 2, Column 1, which corresponds to a dose rate of 500

mrem/year total effective dose equivalent." The licensee states that this change accommodates needed operational flexibility to facilitate implementation of the new 10 CFR 20 requirements.

7. Footnote * to TS 6.8.1.2 would be changed to substitute the new 10 CFR 20 reference (paragraph 20.2206) regarding reports on the monitoring of individuals for radiological exposure. This would replace the current reference to paragraph 20.407.

8. TS 6.11.1 currently contains the old 10 CFR 20 references to paragraphs 20.203(c)(5) and 20.203(c) regarding caution signs, labels, signals, and controls for high radiation areas. These references would be revised to substitute the new 10 CFR 20 references to paragraphs 20.1601(c) and 20.1601, respectively, which supersede the old 10 CFR 20 references.

9. TSs 6.11.1 and 6.11.2 , which regard administrative controls for high radiation areas, would be revised to incorporate the new 10 CFR 20 requirements regarding the distance used to measure a source of radioactivity to determine the dose an individual might receive in 1 hour. Specifically, TS 6.11.1 currently requires that measurements be made at 45 cm (18 in.) from a source of radiation to determine if radiation intensity is greater than 100 mrem/hr but less than 1000 mrem/hr. Similarly, TS 6.11.2 requires that measurements be made at 45 cm (18 in.) from a radiation source to determine if the radiation level is greater than 1000 mrem/hr. This distance would be shortened to 30 cm (12 in.), consistent with the new 10 CFR 20.1601(a)(1).

Basis for proposed no significant hazards consideration determination: Proposed changes 1, 2, 3, 5, 7, 8, and 9 are of an administrative nature to facilitate implementation of the new 10 CFR 20 requirements and do not reduce the current TS requirements. For proposed change 3, the licensee states:

An evaluation was performed to determine the activity that could be released from a tank rupture based on ECL values as compared to the current Technical Specification (3.11.1.4) limit of 10 curies, which is based on MPC values contained in the old 10 CFR 20. The evaluation provided a larger allowable tank activity based on the ECL values. Since a higher activity limit can be determined based on the ECL values, it is conservative to retain the current activity limit of 10 curies. Maintaining the activity limit at 10 curies is also consistent with the guidance contained in NUREG-0133, which states that the curie limit for a temporary tank should be limited to less than or equal to 10 curies, excluding tritium and dissolved or entrained gases, which is consistent with Technical Specification 3.11.1.4.

For proposed changes 4 and 6, the licensee states:

Therefore, to accommodate operational flexibility needed for effluent releases, proposed Technical Specification 6.7.4.f.2 submitted by Georgia Power Company letter dated March 4, 1992, is being revised by restating the limit as ten times the concentrations stated in the new 10 CFR 20, Appendix B, Table 2, Column 2, to apply at all times. The multiplier of ten is proposed because the annual dose of 500 mrem, upon which the concentrations in the old 10 CFR 20, Appendix B, Table II, Column 2, are based, is a factor of 10 higher than the annual dose of 50 mrem, upon which the concentrations in the new 10 CFR 20, Appendix B, Table 2, Column 2, are based. Compliance with the limits of the new 10 CFR 20.1301 will be demonstrated by operating within the limits of 10 CFR 50, Appendix I and 40 CFR 190.

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:

Evaluation of Proposed Changes 1, 2, 3, 5, 7, and 8

1. The proposed changes to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated because they are administrative in nature since they correct specific definitions and old references to 10 CFR 20 in order to facilitate implementation of the new 10 CFR 20 requirements. The proposed changes do not alter the conditions or assumptions in any of the (Final Safety Analysis Report) FSAR accident analyses. Since the FSAR accident analyses remain bounding, the radiological consequences previously evaluated are not adversely affected by the proposed changes.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because they are administrative in nature and do not involve any change to the configuration or method of operation of any plant equipment. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the proposed changes. Also, there will be no change in types or increase in the amount of effluents released offsite.

3. The proposed changes do not involve a significant reduction in a margin of safety because they are administrative in nature and do not reduce the effectiveness of the radiation protection programs at VEGP. Also, the proposed changes do not involve any actual change in the methodology used in the control of solid radioactive wastes or radiological environmental monitoring. The methodology that will be used in the control of radioactive effluents will result in the same effluent release rate as the current methodology now being used.

Evaluation of Proposed Changes 4 and 6

1. The proposed changes to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated because the operational flexibility needed for effluent releases is needed to facilitate implementation of the new 10 CFR 20 requirements. Compliance with applicable regulatory requirements will continue to be maintained. The proposed changes do not alter the conditions or assumptions in any of the FSAR accident analyses. Since the FSAR accident analyses remain bounding, the radiological consequences previously evaluated are not adversely affected by the proposed changes.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the operational flexibility needed for effluent releases does not involve any change to the configuration or method of operation of any plant equipment. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the proposed changes. Also, there will be no change in types or increase in the amount of effluents released offsite.

3. The proposed changes do not involve a significant reduction in a margin of safety because the operational flexibility needed for effluent releases does not reduce the effectiveness of the radiation protection programs at VEGP. The proposed changes do not involve any actual change in the methodology used in the control of solid radioactive wastes or radiological environmental monitoring. The methodology that will be used in the control of radioactive effluents will result in the same effluent release rate as the current methodology now being used. The operational flexibility needed for effluent releases allows the use of concentration values ten times the values given in the new 10 CFR 20. However, this is acceptable since annual doses will be limited to the doses specified in 10 CFR 50, Appendix I and 40 CFR 190.

Evaluation of Proposed Change 9

1. The proposed changes to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed distance to be used to make measurements of a source of radioactivity to control access to high radiation areas is needed in order to facilitate implementation of the new 10 CFR 20 requirements. The proposed changes do not alter the conditions or assumptions in any of the FSAR accident analyses. Since the FSAR accident analyses remain bounding, the radiological consequences previously evaluated are not adversely affected by the proposed changes.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because they do not involve any change to the configuration or method of operation of any plant equipment. Only the distance to be used to make measurements of a source of radioactivity to control access to high radiation areas is being changed. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the

proposed changes. Also, there will be no change in types or increase in the amount of effluents released offsite.

3. The proposed changes do not involve a significant reduction in a margin of safety because a shorter distance will be used to make measurements of a source of radioactivity to control access to high radiation areas. This is a conservative change which will result in higher dose measurements. Therefore, the effectiveness of the radiation protection programs at VEGP will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, Nationsbank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308-2210.

NRC Project Director: David B. Matthews

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 amendment request: September 17, 1992

Description of amendment request: The proposed amendments would revise the time constant utilized in the lag compensator for delta temperature in the overtemperature delta temperature (OTDT) and overpower delta temperature (OPDT) reactor trip function setpoint equations in footnotes 1 and 3 of Technical Specification (TS) Table 2.2-1 from 0 seconds to 2.0 seconds. The K_4 term of the OPDT equation in footnote 3 would also be changed from 1.08 to 1.095.

Basis for proposed no significant hazards consideration determination: The licensee states that:

These revisions will provide additional operating margin to the reactor trip and turbine runback setpoints to account for the potential effects of a recently identified flow phenomenon in the reactor vessel upper plenum. This phenomenon results in a sudden rise in temperature in one of the hot legs with a concurrent decrease in temperature in the adjacent hot leg. This condition occurs randomly, lasts for a short period of time, and then the temperatures return to their previous values. The temperature rise has been sufficient in some cases to cause a turbine runback signal from instrumentation on the affected hot leg. This signal is considered to be spurious since it is not caused by an actual overpower or overtemperature condition. This condition was observed during the startup of VEGP [Vogtle Electric Generating Plant] Unit 1 following its last refueling outage. As a result, GPC [Georgia Power Company] increased the operating margin by reducing the difference between the turbine runback and reactor trip setpoints and increasing the difference between the reference temperature for OPDT and OTDT and the average temperature used for the control system. The Technical Specification changes proposed by this letter will provide additional margin between the trip setpoints and the normal operating conditions.

To assess the effect of the proposed changed OTDT and OPDT setpoints, the licensee performed analyses of accidents and transients that rely on the OTDT and OPDT trips for protection. All assessments for full power assumed reactor power level to be 3565 MWt. The re-analysized accidents and transients include uncontrolled rod cluster control assembly bank withdrawal at power, inadvertent opening of a pressurizer safety or relief valve, chemical and volume control system malfunction resulting in a decrease in the boron concentration in the reactor coolant, steam generator tube rupture, steamline break coincident with control rod withdrawal, and steamline break superheat analysis. The results indicate that limits for departure from nucleate boiling ratio continue to be met and that conclusions in the FSAR remain valid.

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 revised reactor trip functions do not involve a significant increase in the probability or consequences of an accident previously evaluated. Operation with these revised values will not cause any design or analysis acceptance criteria to be exceeded. The structural and functional integrity of any plant system is unaffected. The OTDT and OPDT reactor trip functions are part of the accident mitigation response and are not themselves initiators for any transient. Therefore, the probability of occurrence is not affected.

The changes to the reactor trip functions do not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. Both the margin to DNB and fuel temperature limits remain protected with the revised OTDT and OPDT setpoints, respectively. In addition, the offsite mass releases used as input to the dose calculations are unchanged from those previously assumed. Therefore, the offsite dose predictions remain within the acceptance criteria for each of the transients affected. Since it has been determined that the transient results are unaffected by these parameter modifications, it is concluded that the consequences of an accident previously evaluated are not increased.

2. The revised reactor trip functions do not create the possibility of a new or different kind of accident from any accident previously evaluated. The setpoint adjustments do not affect the assumed accident initiation sequences. No new operating configuration is being imposed by the setpoint adjustments that would create a new failure scenario. In addition, no new failure modes are being created for any plant equipment. Therefore, the types of accidents defined in the FSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

3. The margin of safety associated with the OTDT and OPDT reactor trip functions is evident by the results of the accident analyses. Analyses and evaluations have been performed to determine the effect on plant response to affected transients due to the new reactor trip setpoints. This effort has confirmed that the accident analysis criteria are met, and the required margin of safety regulated for each affected safety analysis is maintained. The acceptance criteria for the analyzed event are unchanged. Thereby, the adequacy of the revised Technical Specification values to maintain safe plant operation is also confirmed, and the changes to the OTDT and OPDT reactor trip setpoints do 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 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: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, Nationsbank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308-2210.

NRC Project Director: David B. Matthews

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 amendment request: September 18, 1992

Description of amendment request: The proposed amendments would revise *Facility Operating License Nos.* NPF-68 and NPF-81, currently held by Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the Owners) to allow Southern Nuclear Operating Company, Inc. (hereafter called Southern Nuclear) to become the operator of Vogtle Units 1

and 2. Southern Nuclear would become the exclusive operating licensee, to possess, manage, use, operate, and maintain the facility. Georgia Power Company is the current operator of the facility. The proposed action would involve no change in ownership. The current Owners would remain on the licenses as licensed owners and would continue to own the assets of the facility in the same percentages as now. Southern Nuclear would have no entitlement to power output from Vogtle or authority to dispatch, broker or market the energy generated.

As described in the application, Georgia Power Company and Southern Nuclear are wholly owned subsidiaries of the Southern Company. After receiving the necessary order from the Securities and Exchange Commission in December 1990, Southern Company incorporated Southern Nuclear for the purpose of consolidating personnel within the Southern Electric System engaged in nuclear operations. Georgia Power Company states that there would be no significant change in nuclear personnel or support organizations, and that, once the proposed amendments become effective, the on-site organization responsible for operations of the Vogtle facility would be transferred intact to Southern Nuclear. Prior to approving this license amendment, the NRC staff will examine the proposed operating agreement and other documents relevant to this license amendment application.

The transfer of any right under the operating licenses is subject to NRC approval pursuant to 10 CFR 50.80(a). Such approval is proposed to be given through an Order approving this transfer.

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 will not involve a significant increase in the probability or consequences of an accident previously evaluated. Southern Nuclear will employ, or contract as necessary, all technically qualified personnel necessary to become responsible for possession, management, operation, use, and maintenance at VEGP [Vogtle Electric Generating Plant]. Therefore, it follows that the technical qualifications of employees of Southern Nuclear and its contractors will be consistent with those of Georgia Power Company presently. Personnel qualifications will remain the same as those discussed in the Technical Specifications and the FSAR.

The Georgia Power Company employees engaged in the operation of the plant will be reassigned to Southern Nuclear. The organizational structure of Southern Nuclear will provide for clear management control and effective lines of authority and communication between the organizational units involved in the management, operation, and technical support for the operation of the facility.

As a result of the proposed changes, there also will be no physical changes to the facility and all Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications will remain unchanged. With the exception of administrative changes to reflect the organization of Southern Nuclear, the emergency plan, security plan, QA program and training program will be unaffected. Provisions will also be made for an orderly transfer of emergency preparedness and security support agreements. Contractual agreements will ensure continued compliance with General Design Criterion 17 as well as Southern Nuclear control over all activities within the exclusion area.

Therefore, the proposed change will not significantly increase the probability or consequences of an accident previously evaluated. In fact, due to the opportunity for increased management focus on nuclear operations afforded by this proposed amendment, the amendment will actually enhance public safety.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. The design and design bases of the plant remain the same. Therefore, the current plant safety analysis remains complete and accurate in addressing the licensing basis events and analyzing plant response and consequences.

The Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits are not affected by the proposed change. With the exception of administrative changes to reflect the organization of Southern Nuclear, plant operating and emergency procedures are unaffected. As such, the plant conditions for which the design basis accident analyses have been performed are still valid. Therefore, the proposed change will not create the possibility of a new or different kind of accident than those previously evaluated.

3. The proposed change will not involve a significant reduction in a margin of safety. Since there will be no change to the physical design or operation of the plant, there will be no change to any margins. Further, the only changes to the Technical Specifications which have been proposed are to reflect the organization of Southern Nuclear. The proposed amendment therefore 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 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: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, Nationsbank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308-2210.

NRC Project Director: David B. Matthews

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: February 24, 1992

Description of amendment request: The requested amendment conforms the TMI-1 Technical Specifications 4.4 and Bases statements for Integrated Leakage Rate Tests (ILRT) with the exemption granted by the NRC on February 25, 1991, which uncouples surveillance frequency from the Inservice Inspection (ISI) schedule of 10 CFR 50.55a. Additionally, administrative changes intended to add clarity and flexibility without changing the context of the existing Technical Specifications are included.

Basis for proposed no significant hazards consideration determination: TAs 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 Three Mile Island Nuclear Station, Unit-1, in accordance with this [Technical Specification Change Request] TSCR would not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed Technical Specification change does not modify or create any accident initiating condition. This change provides administrative changes and corrections to the Technical Specifications; conforms the Technical Specifications to the NRC granted exemption from the ISI schedule requirements of 10 CFR 50.55a; and, provides additional flexibility in the performance of surveillance test confirmations of valve travel. The changes do not result in any condition contrary to the requirements of 10 CFR 50 Appendix J. Therefore, the changes do not impact on nuclear safety or safe plant operations.

2. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed Technical Specification change does not modify or create any accident initiating condition. The proposed changes will result in Technical Specification requirements that meet or exceed the requirements of 10 CFR 50 Appendix J.

3. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not involve a significant reduction in a margin of safety because the margins of safety, as described in existing Technical Specification bases, remain unaffected by this change request; further, the margins of safety defined in the [Safety Analysis Report] SAR are not impacted by this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: May 13, 1992

Description of amendment request: The requested amendment would change license condition 2(c)(8)(2). The change increases the allowable primary-to-secondary (P/S) leakage rate from 0.1 to 0.2 gpm above the baseline leak rate when the increased leakage is judged to be caused by leaking plugs or joints. Under all other conditions, the current 0.1 gpm limit would remain in effect.

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:

GPU Nuclear has determined that this License Amendment request poses no significant hazards as defined in 10 CFR 50.92 in that operation of TMI-1 in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

Allowing the leak rate limit above baseline to increase from 0.1 to 0.2 gpm when the increase is judged to be caused by leaking plugs or joints, does not challenge the integrity of the [Once Through Steam Generator Tubes] OTSG tubes. The consequence of a potential tube rupture is bounded by the previous analysis in the TMI-1 [Final Safety Analysis Report] FSAR for a double ended tube rupture. For a tube leak, the current license administrative limit of 0.1 gpm above baseline remains in effect and shutdown is still required for any rapid increase in the P/S leakage rate. The [Main Steam Line Break] MSLB radiological consequences are bounded by the previous FSAR Analysis based on the 1 gpm tube leak. Thus there is no increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

OTSG tube rupture or an MSLB accident are the only accidents requiring consideration based on this change. Allowing the leak rate limit above baseline to increase from 0.1 to 0.2 gpm when the increase is caused by leaking plugs or joints will not create a potential to affect the structural integrity of the tubes. No other tube failure mechanisms are created by this change. This change modifies, under restricted conditions, an administrative restriction on plant operation and does not affect any safety system. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. Involve a significant reduction in a margin of safety.

The plant license currently precludes operation in excess of 0.1 gpm above the baseline leak rate. If, after shutting down, the source of leakage cannot be located, it is permitted to reestablish a new baseline under these circumstances. However, under no circumstance may the leakage limit of 1 gpm [TS Section 3.1.6.3] be exceeded for both steam generators.

This [Technical Specification Change Request] TSCR does not change the 1 gpm limitation. In order for the increased leak rate limit of 0.2 gpm to be invoked, the increased leakage trend must be judged to be caused by leaking plugs or joints and not be indicative of rapid tube failure. If P/S leak rate indicates tube leakage exceeds 0.1 gpm, or shows a rapidly increasing trend, plant shutdown is still required. Therefore, there is no 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: May 19, 1992

Description of amendment request: The proposed amendment deletes portions of the TMI-1 Radiological Environmental Technical Specifications (RETS) and relocates them to controlled programs in accordance with the guidance contained in NRC Generic Letter 89-01, dated January 31, 1989.

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 would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated.

The proposed amendment allows relocation of portions of the RETS to either the [Offsite Dose Calculation Manual] ODCM or [Process Control Program] PCP according to the guidance contained in GL 89-01. This proposal simplifies the RETS, meets the regulatory requirements for radioactive effluent and radiological environmental monitoring, and is provided as a line-item improvement of the Tech. Specs. Variances in the RETS from NUREG- 0472 have been reviewed and approved by the NRC. Thus, this change does not increase the probability of occurrence or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposal relocates procedural details, currently included in the Tech. Spec. Amendment, on radioactive effluent, solid radioactive wastes, environmental monitoring, and associated reporting requirements to the ODCM or PCP as appropriate. Future changes to these procedural details in the ODCM and the PCP will be handled under the administrative controls for changes to these documents. Therefore, this change has no effect on the possibility of creating a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The procedural details being relocated to the ODCM or the PCP are consistent with the guidance provided in GL 89-01 and NUREG-0472. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 24, 1992

Description of amendment request: The requested amendment would revise the Technical Specifications to implement a 24-month plant refueling cycle which would include an operating cycle and one refueling/maintenance outage.

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 would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. The proposed amendment extends the interval between successive refueling outage based surveillances to once every 24 months for those surveillances evaluated herein and, maintains the existing surveillance interval restriction for those systems and equipment not evaluated for extension. This change does not involve any change to the actual surveillance requirements, nor does it involve any change to the limits and restrictions on plant operations. The reliability of systems and components relied upon to prevent or mitigate the consequences of accidents previously evaluated is not degraded beyond that obtained from the currently defined refueling outage interval. Assurance of system and equipment availability is maintained. This change does not involve any change to system or equipment configuration. Therefore, this change does not increase the probability of occurrence of the consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment extends the interval between successive refueling outage based surveillances to once every 24 months for those surveillances evaluated herein and maintains the existing surveillance interval restriction for those systems and equipment not evaluated for extension. This change does not involve any change to the actual surveillance requirements, nor does it involve any change to the limits and restrictions on plant operation. This change does not involve any change to system or equipment configuration. Therefore, this change is unrelated to the possibility of creating a new or different kind of accident from any previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed amendment extends the interval between successive refueling outage based surveillances to once every 24 months for the surveillances evaluated herein, and maintains the existing surveillance interval restriction for those systems and equipment not evaluated for extension. This change does not involve any change to the actual surveillance requirements, nor does it involve any change to the limits and restrictions on plant operation. The reliability of systems and components is not degraded beyond that obtained from the currently defined refueling outage interval. Assurance of system and equipment availability is maintained. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 24, 1992

Description of amendment request: The requested amendment would revise Technical Specification Section 6.2.2.2.f to delete the requirement for a separate licensed Senior Reactor Operator (SRO) to directly supervise irradiated fuel handling and transfer activities on site, and the retention of the requirement for a licensed SRO to directly supervise REFUELING OPERATIONS is consistent with regulatory requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequence of an accident previously evaluated. Deletion of the requirement for a separate licensed SRO to directly supervise irradiated fuel handling and transfer activities at locations other than the Reactor Building is an administrative change which is consistent with regulatory requirements noted in 10 CFR 50.54 (m)(2)(iv).

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment does not modify plant hardware operation or methods of handling fuel. The facility will continue to be operated within the limits of the existing accident analyses and margins of safety.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety since the change contained in the proposed amendment does not change any existing safety margins.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: July 22, 1992

Description of amendment request: The requested amendment would revise Technical Specification Section 6.3, Unit Staff Qualifications, to incorporate requirements prescribed by 10 CFR Part 55.

Basis for proposed no significant hazards consideration determination: TAs 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 would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. This proposed change is an administrative change that will result in Technical Specifications that accurately represent the present methods of establishing licensed operator qualifications and maintaining adequate training and requalification. These methods are in compliance with appropriate regulatory requirements that are specified in 10 CFR, Part 55.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. This is an administrative change and will not modify plant hardware or change methods of operation. The facility will continue to be operated within the limits of existing accident analysis and margins of safety.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety since the change contained in the proposed amendment does not change any existing safety margins.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: August 24, 1992

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to eliminate the requirement to test for operability, each component in Emergency Core Cooling (ECC) systems, immediately prior to removing the redundant component from service for maintenance. Operability will be based upon the satisfactory completion of surveillance and inservice testing and inspection required by TS Sections 4.2 and 4.5.

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 would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. ECC Systems and equipment will be verified to be operable prior to removing redundant equipment from service for maintenance. A review and verification of completed surveillance and inservice test and inspection activities shall be accomplished which will ensure the same or greater level of verification of operability as previous testing.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated. The proposed amendment does not modify plant operation or methods of conducting maintenance activities. ECC systems and equipment will continue to be required to be operable when redundant equipment is removed from service for maintenance activities. The facility will continue to be operated within the limits of the existing accident analysis and margins of safety.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in the margin of safety since the change contained in the proposed amendment does not change any existing safety margins.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: August 25, 1992

Description of amendment request: The proposed amendment would revise the Technical Specifications to incorporate appropriate surveillance and design requirements to allow for the storage of new fuel with an enrichment not to exceed a nominal 5.0 weight percent U-235 for new reload fuel assemblies and rods.

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 would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. Fuel handling accidents remain bounded by the original [Final Safety Analysis Report] FSAR analysis. The only accident scenarios for which the probability of occurrence are affected by fuel enrichment involve criticality events during fuel handling and storage. The enclosed criticality safety analysis demonstrates that the calculated K_{eff} during fuel handling and storage is adequate to ensure sub-criticality for all defined accident conditions. Since sub-criticality is maintained, no releases result from the above fuel handling criticality accident scenarios. It has been demonstrated that the NRC criticality requirements for the storage of new fuel are met under

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The only potential impact of increased enrichment upon fuel handling and storage involves the potential for criticality which has been addressed above.

3. Operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety. The enclosed criticality analysis demonstrates that there is adequate margin to assure the subcriticality of the fuel during handling and storage operations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: June 16, 1992. This request supersedes letters dated October 12, 1990, and October 25, 1991.

Brief description of amendments: This was previously published in the Federal Register on December 26, 1990 (55 FR 53072) and on December 26, 1991 (56 FR 66920). The proposed amendment would delete Table 5.7-1 (Component Cycle or Transient Limits) from the Technical Specifications. Cyclic/transient occurrences identified in the Updated Final Safety Analysis Report, Table 3.9-8, would be tracked through administrative procedures. Houston Lighting & Power Company had previously submitted an amendment request to delete Table 5.7-1 by letters dated October 12, 1990, and October 25, 1991. The June 16, 1992, submittal supersedes the letter of October 25, 1991, which itself superseded the letter of October 12, 1990. The June 16, 1992, letter includes the incorporation of staff comments. The licensee's analysis of no significant hazards consideration has not changed, however it will be repeated for completeness.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of accidents previously evaluated.

The removal of cyclic or transient limits from the STPEGS [South Texas Project or STP] Technical Specifications has no influence or impact on the probability or consequences of any accident previously evaluated. The change is administrative in nature. The cyclic or transient limits will still be monitored in the operation of the STP plants.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change is administrative in nature and involves no change to the design bases or operating procedures. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not result in a significant reduction in the margin of safety.

The margin of safety is not affected by the removal of cyclic or transient limits from the Technical Specifications. The margin of safety presently provided by current Technical Specifications remains unchanged. Appropriate measures exist to control the values of these cyclic or transient limits. Therefore, the proposed changes are administrative in nature and do not impact the operation of STP in a manner that involves a reduction in the margin of safety. The proposed amendment continues to require operation within the cyclic or transient limits. Appropriate actions to be taken when or if limits are violated remain unchanged.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P. C., 1615 L Street, N.W. Washington, D.C. 20036

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 17, 1992

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.6.12/4.6.12 (Reactor Protection System Motor Generator Set Monitoring) and associated Bases to reflect a replacement of Motor Generator Sets 162 and 172 with Static Uninterruptible Power Supplies 162 and 172. The licensee states that the Uninterruptible Power Supplies are functionally equivalent to the Motor Generator Sets. Conforming changes would also be made in the TS Table of Contents. In addition, a minor editorial change would be made in TS 4.6.12 by adding "cont'd" after the word Specification on page 241ii2.

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.

Substitution of a Static Uninterruptible Power Supply for the MG [Motor Generator] Set is schematically a one-for-one substitution of a component with functionally equivalent characteristics. The failure of the Reactor Protection System power supply is not an initiating event for any Design Basis Accident.

Since the static UPS's [Uninterruptible Power Supplies] provide the identical function as the MG Sets, these changes will not involve a significant increase in the probability or consequences of an accident previously evaluated. In addition, the editorial change is made only to maintain consistency. This also does not result in a significant increase in the probability or consequences of an accident previously evaluated.

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.

The Uninterruptible Power Supplies are functionally equivalent to the existing Motor Generator Sets, have equivalent failure modes, and protection is included against causing a failure of existing equipment. Moreover, the editorial change does not affect any function. Therefore, these proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

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 Reactor Protection System Instrumentation performance will not be reduced since the current power protection relaying system will remain in service and not be modified. The safety related 125 VDC [Vdc: volts direct current] Battery System's margin of safety will not be affected, since calculations show battery loading to be satisfactory. In addition, the editorial change does not affect or alter system function. Therefore, this proposed change will not involve a significant reduction in a margin of safety.

Therefore, the proposed nomenclature changes do not adversely affect a Limiting Condition for Operation or involve a 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: 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

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: September 17, 1992

Description of amendment request: This amendment would revise Technical Specification Tables 3.3.7.2-1 and 4.3.7.2-

1 to reflect the relocation of a triaxial peak accelerograph seismic monitor from a reactor recirculation pump motor to the reactor pedestal. The location change is necessary to avoid high background vibration at the original monitor location which could mask readings from actual seismic events.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

This Amendment relocates a non-safety related passive instrument. The relocated instrument is a triaxial peak accelerograph which has been moved from the reactor recirculation pump "A" motor to the reactor pedestal, azimuth 137.5° at elevation 265'5 1/2". The new location on the reactor pedestal complies with Regulatory Guide 1.12 and American National Standard ANS 2.2 and will improve the instrument's ability to provide accurate measurements of seismic response.

This non-safety related passive instrument does not control or actuate any systems. It does not perform an active function in response to an accident analyzed in the Updated Safety Analysis Report (USAR). The triaxial peak accelerograph will, however, measure the maximum acceleration response of reactor equipment during a seismic event. This information will enable Niagara Mohawk to compare the seismic response of reactor equipment with the design basis described in section 3.7 of the USAR.

The relocation of triaxial peak accelerograph 2ERS-PAC2c by this Amendment will not increase the probability or consequences of any accidents previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This instrument is a passive, non-safety related instrument, requiring no electrical power. The instrument does not control or actuate any systems and its failure would not inhibit the function of any safety related systems or components. Its relocation will not alter or affect the operation of any safety related equipment or the safe operation or shutdown of the plant.

The relocation of triaxial peak accelerograph 2ERS-PAC2c has no effect on pipe breaks and jet impingement on systems within the containment. This instrument relocation does not create any new human factors or fire protection concerns, nor does it affect any equipment clearance or any existing heavy loads analysis.

In summary, the relocation of triaxial peak accelerograph 2ERS-PAC2c does not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The relocation of 2ERS-PAC2c will increase its ability to provide accurate measurements of seismic response in accordance with the level of information required by the Technical Specifications and the USAR. This information may be required, according to Regulatory Guide 1.12, to determine "the advisability of continuing the operation of the plant without a safety analysis following an earthquake."

This relocated triaxial peak accelerograph does not affect, control, or actuate any safety related systems or any systems required for thesafe operation or shutdown of the plant. Consequently, this Amendment to relocate triaxial peak accelerograph 2ERS-PAC2c does not involve a reduction in a margin of safety.

Accordingly, as determined by the analysis above, this proposed Amendment involves no significant hazards consideration.

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: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

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: September 4, 1992

Description of amendment request: The proposed change would revise the NA-1&2 Technical Specifications (TS) pertaining to the monitoring program for secondary water chemistry.

Specifically, the proposed change would delete TS 6.8.4.c(vii). In addition, TS 6.8.4.c(iii) would be modified to reflect the deletion of TS 6.8.4.c(vii). Editorial changes are proposed to TS 6.8.4.c(v) and 6.8.4.c(vi).

TS 6.8.4.c specifies a program for monitoring secondary water chemistry to inhibit steam generator tube degradation. Specifically, TS 6.8.4.c(vii) requires monitoring the condensate at the discharge of the condensate pumps for evidence of condenser inleakage. In addition, TS 6.8.4.c(vii) requires a leak to be repaired, plugged, or isolated within ninety-six (96) hours after leakage confirmation.

The modification of TS 6.8.4.c(iii) will continue to require monitoring the condensate at the discharge of the condensate pumps for evidence of condenser inleakage. The time frames for the repair of condenser inleakage will be controlled in accordance with station administrative procedures which have incorporated industry guidance for action levels and acceptable time frames.

The proposed changes are consistent with the Steam Generator Owners Group (SGOG) guidelines and the Electric Power Research Institute (EPRI) guidelines for secondary water chemistry, as well as NUREG-0452, Revision 4, "Standard Technical Specifications for Westinghouse Pressurized Water Reactors."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are consisent with the SGOG guidelines, EPRI guidelines, and applicable sections of NUREG-0452 and will continue to ensure that the consendate at the discharge of the condensate pumps will be monitored in order to detect condenser inleakage. In addition, station administrative procedures will ensure appropriate actions are taken in the event of condenser inleakage. Likewise, the consequences of any accident previously evaluated will not increase as a result of the proposed change. The SGOG guidelines, EPRI guidelines and applicable sections of NUREG-0452 have been incorporated into station administrative procedures and ensure an aggressive approach for condenser inleakage by evaluating all chemistry parameters that may be affected. In addition, any applicable action levels for any chemistry parameter that may be associated with an increased condenser inleakage would also be entered.

2.The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are consistent with SGOG guidelines, EPRI guidelines and applicable sections of NUREG-0452 that have established chemistry specifications to ensure secondary water chemistry is maintained at conditions to inhibit steam generator corrosion. The proposed changes are more conservative than the current requirements. Since a new or different kind of failure is not created, the possibility of a new or different type of accident does not exist.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The results of the UFSAR [Updated Final Safety Analysis Report] accident analyses continue to bound operation under the proposed changes. Actual plant operation will not be affected since the SGOG guidelines, EPRI guidelines and applicable sections of NUREG-0452 have been incorporated into station administrative procedures. The proposed changes do not involve a change to safety limits or limiting safety system settings. Setpoints and operating parameters are not affected. Therefore, the margin of safety is not significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: September 4, 1992

Description of amendment request: Surry Power Station has both hydraulic and mechanical snubbers installed in the plant. Technical Specifications require periodic functional testing of both hydraulic and mechanical snubbers. Acceptance criteria for functional testing of snubbers are included in the Technical Specifications. Over the last several refueling outages the originally installed Pacific Scientific mechanical snubbers have been replaced with Anchor Darling mechanical snubbers. Since the Anchor Darling snubbers operate in a different manner, the existing Technical Specification acceptance criteria for functional testing of mechanical snubbers are inappropriate for operability determinations. Therefore, changes are being proposed to the mechanical snubber functional testing acceptance criteria to provide appropriate acceptance criteria for the Anchor Darling snubbers. In addition, other administrative changes are being proposed to provide consistency in terminology and to note that functional testing is in accordance with the approved Inservice Inspection Program.

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 Surry Power Station in accordance with the proposed changes will not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

Mechanical snubbers will continue to be functionally tested and the results evaluated against appropriate criteria to ensure operability. The operability of the systems supported by the snubbers is not being affected. Functional testing of snubbers will continue to be performed once every eighteen months when the plant is shutdown. Therefore, the probability of occurrence or the consequences of an accident previously evaluated is not being significantly increased by the proposed changes.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The systems, structures, and components supported by these snubbers will not be operated in a different manner. The modified snubber functional test acceptance criteria will ensure snubber operability. Therefore, the proposed changes do not introduce any new failure modes or accident precursors.

3. Involve a significant reduction in a margin of safety.

The proposed changes will continue to ensure the operability of the mechanical snubbers. The systems, structures and components will not be effected by the proposed changes and will continue to perform as assumed in the accident analyses. Therefore, the margin of safety as efined in any Technical Specification is not significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station (YNPS), Franklin County, Massachusetts

Date of amendment request: September 16, 1992

Description of amendment request: The proposed amendment would remove primary and secondary system chemistry programs and oxygen monitoring for the Waste Gas Holdup System from the License or Technical Specifications (TS) as appropriate.

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:

YNPS is permanently shutdown and defueled. YNPS has ceased activities which require the chemistry program specifications of license paragraph 2.C.(5), TS 3.4.6 and TS 3.11.2.5. The Main Coolant System and the steam generators have been placed in layup. The Waste Gas Holdup System has been purged and vented and will no longer be used to hold hydrogen bearing primary system offgas mixtures.

The proposed change has been evaluated and determined to involve no significant hazards consideration. As such, these changes will not:

1.Involve a significant increase in the probability or consequence of an accident previously evaluated. This change reflects water chemistry requirements appropriate to the permanently shutdown and defueled status of YNPS. Specifically, the changes delete three programs which are no longer applicable.

With the reactor vessel permanently shutdown and defueled, the only design basis event applicable to YNPS is a fuel handling accident in the Spent Fuel Pit. The three programs deleted do not affect the LCOs associated with handling spent fuel.

Therefore, there is no increase in the probability or consequences of an accident previously evaluated in the SAR as a result of this change.

2. Create the possibility of a new or different accident from any previously evaluated. The changes described in this proposal do not modify any plant systems or components and will not create the possibility of a new or different accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety. The elimination of these three chemistry programs is consistent with the cessation of power operations. Therefore, this change will not involve a significant reduction in a margin of safety.

Based on the above considerations, it is concluded that there is reasonable assurance that maintenance of YNPS, consistent with the proposed change, will not endanger the health and safety of the public.

This proposed change has been reviewed by the Plant Operations Review Committee and the Nuclear Safety Audit and Review Committee.

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: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Seymour H. Weiss

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, 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.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: April 27, 1992

Brief description of amendments: These amendments reduce the allowable out-of-service time for one train of the Essential Chilled Water System from 7 days to 72 hours.

Date of issuance: October 1, 1992

Effective date: October 1, 1992

Amendment Nos.: 65, 51, and 38

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 19, 1992 (57 FR 37560) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

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 17, 1992

Brief description of amendments: The amendment administratively changed the Technical Specifications by removing the list of primary containment conductor overcurrent protective devices (Table 3.8.3.2-1) from the Technical Specifications and placed it in a controlled procedure. The limiting conditions for operation, action statements, and surveillance requirements of the overcurrent protective devices remain unchanged.

Date of issuance: September 22, 1992

Effective date: Upon startup from L1R05 refuel outage.

Amendment Nos.: 87 and 71

Facility Operating License Nos. NPF-11 and NPF-18. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 5, 1992 (57 FR 34581) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 22, 1992. 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.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: May 7, 1992

Brief description of amendment: The amendment changes Technical Specification (TS) Section 4.4.6.2.1.g to correct the referenced specification in the footnote on the bottom of page 3/4-32a from TS 4.0.5 to TS 4.4.6.2.1.i and TS 4.0.5. The associated Bases for specification 3/4.4.6.2 will be clarified. In addition, Bases page B3/4 4-12 will be reissued.

Date of issuance: September 23, 1992

Effective date: September 23, 1992

Amendment No.: 156

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 24, 1992 (57 FR 28198) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 23, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 24, 1992, as supplemented September 2, 4, 17, and 23, 1992

Brief description of amendments: The amendments change Technical Specifications Sections 4.4.5.2, 3.4.6.2, and Bases 3/4.4.5, 3/4.4.6.2, and 3/4.4.8 to allow the implementation of interim steam generator tube plugging criteria for the tube support plate elevations. The amendments also reduce the allowed primary-to-secondary operational leakage from any one steam generator from 500 gallons per day to 150 gallons per day. The total allowed primary-to-secondary operational leakage through all steam generators is reduced from one half gallon per minute (720 gallons per day) to .4 gallons per minute (576 gallons per day). This change is only applicable for Unit 1 fuel Cycle 7.

Date of issuance: September 25, 1992

Effective date: September 25, 1992

Amendment Nos.: 102 and 96

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the

Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (57 FR 39250 dated August 28, 1992). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by September 28, 1992, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 1992.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam ElectricStation, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: April 24, 1992, as supplemented by letter dated August 27, 1992.

Brief description of amendment: The amendment revised the Technical Specifications by increasing the time for closure of the main steam isolation valves.

Date of issuance: September 18, 1992

Effective date: September 18, 1992

Amendment No.: 76

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 24, 1992 (57 FR 28200) The additional information contained in the supplemental letter dated August 27, 1992, was clarifying in nature and, thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of application for amendment: July 17, 1992, as supplemented July 30, 1992

Brief description of amendment: The amendment would revise the Technical Specifications (TSs) for Hatch Unit 1 to extend the allowed outage time for diesel generator 1B and correct errors in the diesel generator TSs.

Date of issuance: September 21, 1992

Effective date: To be implemented no later than 60 days from the date of issuance

Amendment No.: 182

Facility Operating License No. DPR-57: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37566) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: May 2, 1989

Brief description of amendment: The amendment revises River Bend Station Technical Specification 3/4.8.1.1, AC Sources - Operating, to reduce unnecessary diesel generator (DG) testing under those conditions when an offsite power supply or a diesel generator becomes inoperable. The amendment also reduces unnecessary plant shutdowns when safe continued operation would normally be allowed by the current Technical Specification action statements. Specifically, the amendment provides the following:

1. A provision has been added such that, when a DG has been declared inoperable, verification can be made to determine that the cause of a DG being inoperable does not impact the operability of the remaining DGs. This will be allowed in lieu of starting and loading the remaining DGs.

2. Currently, if a DG is inoperable due to any cause other than "preplanned preventive maintenance," the remaining DGs must be started and loaded. The word "preventive" is being deleted to allow for preplanned corrective maintenance without starting and loading the remaining DGs.

3. The requirement to start and load the DGs upon loss of one or both offsite circuits is being deleted.

4. Currently, if a DG is inoperable, Action Statement e requires that all equipment that relies on the remaining DG be verified operable within two hours or plant shutdown must be initiated. A provision is being added to allow the licensee to follow the action statement of the affected equipment with both trains inoperable as opposed to following the DG action statement.

Date of issuance: September 29, 1992

Effective date: September 29, 1992

Amendment No.: 64

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37568) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 1992No significant hazards consideration comments received: No

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: October 7, 1991.

Brief description of amendment: The amendment changed the Technical Specifications to add operational and surveillance requirements for the primary containment hydrogen concentration analyzer in accordance with the guidance of NRC Generic Letter 83-36.

Date of issuance: September 22, 1992

Effective date: September 22, 1992

Amendment No.: 154

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 10, 1992 (57 FR 24673) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

North Atlantic Energy Service Corporation, Docket No. 50-443, SeabrookStation, Rockingham County, New Hampshire

Date of application for amendment: October 16, 1991

Brief description of amendment: The proposed amendment revises the technical specifications (TSs) to require power to be maintained to closed block valves when associated pressurizer Power Operated Relief Valves (PORVs) are exhibiting excessive seat leakage so that the block valves can be readily opened to permit the use of PORVs in

mitigating a Reactor Coolant System (RCS) pressure transient. The proposed amendment also revises the TS to require that two overpressure protection devices (a combination of any two PORVs and/or Residual Heat Removal System suction relief valves) be operable when overpressure protection of the RCS is required at that low temperature. The proposed amendment also tightens the allowed outage time for a single channel of low temperature overpressure protection in MODES 5 and 6. These changes implement the guidance of Generic Letter 90-06, "Resolution of Generic Issue 70, 'Power-Operated Relief Valve and Block Valve Reliability," and Generic Issue 94, 'Additional Low-Temperature Overpressure Protection for Light-Water Reactors,' Pursuant to 10 CFR 50.54(f)."

Date of issuance: September 21, 1992

Effective date: September 21, 1992

Amendment No.: 16

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 4, 1992 (57 FR 7815) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

North Atlantic Energy Service Corporation, Docket No. 50-443, SeabrookStation, Rockingham County, New Hampshire

Date of application for amendment: August 3, 1992

Brief description of amendment: This amendment allows for complete verification of operability of the reactor trip breaker shunt trip circuitry prior to startup from the first planned or unplanned shutdown, to Mode 3 or lower, occurring after July 30, 1992.

Date of issuance: September 30, 1992

Effective date: September 30, 1992

Amendment No.: 17

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 20, 1992 (57 FR 37848) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1992No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone NuclearPower Station, Unit 1, New London County, Connecticut

Date of application for amendment: June 30, 1992

Brief description of amendment: The change adds a statement, Technical Specification 4.13.A.2, that Northeast Nuclear Energy Company's (NNECO's) Inservice Inspection Program shall be performed in accordance with the staff positions contained in Generic Letter 88-01 or its supplement. In addition, the proposed change deletes all references pertaining to hydrogen water chemistry testing, (NNECO has discontinued hydrogen injection at Millstone Unit 1), and therefore deletes the need for notes pertaining to increased radiation level setpoints in TS Tables 3.1.1 and 3.2.1.

Date of issuance: September 24, 1992

Effective date: September 24, 1992

Amendment No.: 59

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 5, 1992 (57 FR 34587). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 24, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Philadelphia Electric Company, Docket No. 50-353, Limerick Generating Station, Unit 2, Montgomery County, Pennsylvania

Date of application for amendment: July 7, 1992

Brief description of amendment: This amendment revises the Technical Specifications to add new isolation valves on each common Control Rod Drive header to the table of primary containment isolation valves that must be operable and to delete the existing individual Hydraulic Control Unit isolation valves from the Technical Specifications.

Date of issuance: September 28, 1992

Effective date: September 28, 1992

Amendment No. 22

Facility Operating License No. NPF-85. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 5, 1992 (57 FR 34589) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas CompanyDelmarva Power and Light Company, and Atlantic City Electric Company,Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station,Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: August 5, 1992 and supplemented by letter dated September 11, 1992

Brief description of amendments: The amendments revise Section 4.11.D of the Peach Bottom Atomic Power Station (PBAPS) Technical Specifications (TS) regarding the visual inspection of snubbers. The changes revise the method of determining inspection intervals for snubbers in accordance with the guidance provided in NRC Generic Letter 90-09. "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions."

Date of issuance: September 21, 1992

Effective date: September 21, 1992

Amendments Nos.: 171 and 175

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37570) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 21, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: January 13, 1992, as supplemented August 6, 1992.

Brief description of amendment: The Technical Specifications were revised to incorporate the following changes:

(1) Technical Specifications Section 4.11 (Safety-Related Shock Suppressors (Snubbers)) was revised to change the frequency of snubber functional testing (specified in Section 4.11.B.1) and reviews of snubber maintenance records

(specified in Section 4.11.C.2) to accommodate operation with a 24-month cycle.

(2) All applicable Technical Specifications pages were revised to replace the wording "every refueling outage," or similar words, with "once per 18 months." In addition, those surveillance items which were only refueling outage related, regardless of the length of the operating cycle, were clearly delineated. The applicable pages were: 4.1-3, 4.4-3, 4.4-6, 4.5-1 through 4.5-5, 4.5-7, 4.5-8, 4.6-1 through 4.6-3, 4.7-1, 4.8-1, 4.10-4, 4.13-1, Table 4.1-1, and Table 4.1-3.

(3) The Basis of Technical Specifications Section 4.1 (Operational Safety Review) was revised to specify that the 25% extension time for surveillance requirements, allowed by Technical Specifications Definition 1.12, is applicable to surveillances performed once every 24 months.

These changes follow the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable.

Date of issuance: September 21, 1992
Effective date: September 21, 1992
Amendment No.: 125
Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 4, 1992 (57 FR 7814) The August 6, 1992, submittal withdrew proposed changes to Technical Specification Section 4.5.B.2.d and did not affect the no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 1992.No significant hazards consideration comments received: No
Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: February 6, 1992
Brief description of amendment: The amendment revised Technical Specifications Section 4.1 (Operational Safety Review) Tables 4.1-1 and 4.1-3 to change the frequency of analog rod position indication system calibration and control rod drop time testing, respectively, to accommodate operation on a 24-month fuel cycle. These changes followed the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle."
Date of issuance: September 23, 1992
Effective date: September 23, 1992
Amendment No.: 126
Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 15, 1992 (57 FR 13136) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 1992.No significant hazards consideration comments received: No
Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: April 21, 1992.
Brief description of amendment: This amendment revises Condition 2.C(3) of
Facility Operating License No. DPR-18. The amendment removes fire protection Technical Specifications (TS) 1.11, 3.14, 4.15 and 6.1.1(f), Tables 3.14-1 and 3.14-2, and the corresponding Bases sections for 3.14 and 4.15 from Appendix A of that license. The amendment also adds an administrative controls section in TS 6.5.1.6(1) and 6.5.1.7a.
Date of issuance: September 21, 1992
Effective date: September 21, 1992
Amendment No.: 49
Facility Operating License No. DPR-18: Amendment revised the Technical Specifications and License.
Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37572) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 1992. No significant hazards consideration comments received: No
Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: April 30, 1992
Brief description of amendment: The amendment allowed the use of extended life control rods, and allowed the use of different Inconel absorber material for the axial power shaping rods.
Date of issuance: September 22, 1992
Effective date: September 22, 1992
Amendment No. 173
Facility Operating License No. NPF-3. Amendment revised the License and the Technical Specifications.
Date of initial notice in **Federal Register:** July 22, 1992 (57 FR 32578) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1992. No significant hazards consideration comments received: No
Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: November 1, 1991, supplemented December 26, 1991 and June 1, 1992.
Brief description of amendment: The amendment revised the Technical Specifications (TS) by removing the Fire Protection Program, Sections 3/4.3.3, "Fire Detection Instrumentation," 3/4.7.9, "Fire Suppression Systems" and Bases, and 3/4.7.10, "Fire Barriers" and Bases, and by revising Fire Protection Program Administrative Controls, Sections 6.2.2.F, "Facility Staff," 6.4.2, "Training," 6.5.1.6, "Responsibilities," and 6.9.2, "Special Reports, and by modifying Operating License Condition 2.C.(4), "Fire Protection." The changes are consistent with Generic Letter (GL) 86-10, "Implementation of Fire Protection Requirements," and GL 88-12, "Removal of Fire Protection Requirements From TS."
Date of issuance: September 22, 1992
Effective date: September 22, 1992
Amendment No. 174
Facility Operating License No. NPF-3. Amendment revised the License and the Technical Specifications.
Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64662). The supplemental letters of December 26, 1991 and June 1, 1992 confirmed the installation of fire detection equipment and requested a 90 day implementation period and did not change the request or affect the staff's notice of the request. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1992. No significant hazards consideration comments received: No
Local Public Document Room location: University of Toledo Library,

Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: July 16, 1992

Brief description of amendments: The amendments revise the wording in the North Anna 1 and 2 Technical Specifications for the reactor coolant system volume in the design features section.

Date of issuance: September 21, 1992

Effective date: September 21, 1992

Amendment Nos.: 166, 146

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37574) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 21, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of applications for amendment: April 4, 1991 and April 6, 1992

Brief description of amendment: The amendment deletes the battery load profiles from the Technical Specification 4.8.2.1.d.2, and revises Bases sections 3/4.8.1, 3/4.8.2, and 3/4.8.3 to refer to the plant's Final Safety Analysis Report (FSAR) which will contain the battery profiles.

Date of issuance: September 18, 1992

Effective date: September 18, 1992

Amendment No.: 110

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37593) Supplemental letters dated April 6, 1992, June 25, 1992, and July 16, 1992, were submitted at the request of the NRC and did not affect the proposed determination of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1992.No significant hazards consideration comments requested: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

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 22, 1989, as supplemented August 25, 1992

Brief description of amendments: The amendments changed the Technical Specifications by adding limiting conditions of operation to prescribe when the 480 volt safeguard buses may be tied together, when the 4160 volt safeguards buses may be tied together, and when these safeguard buses must be powered from their normal supply. The corresponding Bases section was also changed by adding a paragraph to explain requirements for the safeguards buses.

Date of issuance: September 18, 1992

Effective date: September 18, 1992

Amendment Nos.: 134 and 138

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31445) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 6th day of October 1992.

For the Nuclear Regulatory Commission

Jack W. Roe,

Director, Division of Reactor Projects III/IV/V Office of Nuclear Reactor Regulation.

[DOC. 92-24749 Filed 10-13-92; 8:45 am]

BILLING CODE 6560-50-F

PANAMA CANAL COMMISSION

Agency Collection of Information Submitted to the Office of Management and Budget for Clearance

AGENCY: Panama Canal Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), as amended, the Panama Canal Commission hereby gives notice that it has submitted to the Office of Management and Budget a Standard Form 83, Request for OMB Review, for a collection of information designated "Procurement-Related Forms and Contract Clauses."

ADDRESSES: Comments may be sent to Edward H. Clarke, Information Desk Officer, Commerce and Lands Branch, Office of Information and Regulatory Affairs, room 3208, New Executive Office Building, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the information collection request or related information, contact Barbara Fuller, Office of the Secretary, Panama Canal Commission, telephone (202) 634-6441.

SUPPLEMENTARY INFORMATION:

Title: Procurement-Related Forms and Contract Clauses.

Form and Clause Numbers: Various.

Type of Review: New.

Needs and Uses: The collection of information is necessary to procure supplies, services, and construction required by the Panama Canal Commission for the operation and maintenance of the Panama Canal. The information requested is prescribed by various sections of the Panama Canal Commission Acquisition Regulation (PAR), codified as 48 CFR chapter 35, which is issued by the Administrator of the Commission pursuant to the authority of section 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c), as amended, for the purpose of implementing and supplementing the Federal Acquisition Regulation (FAR) (48 CFR chapter 1). Agency implementation and supplementation of the FAR is authorized by § 1.301 of the FAR. Together, the FAR and PAR govern the contracting process or otherwise control the relationship between the Commission and its contractors or prospective contractors.

Affected Public: Businesses or other for-profit and small businesses.

Burden: 19,999 hours.

Average Hours Per Response: .289

Frequency: On Occasion

Number of Respondents: 69,128

Dated: October 7, 1992.

Joseph J. Wood,

Director, Office of Executive Administration, Senior Official for Information Resources Management.

[FR Doc. 92-24819 Filed 10-13-92; 8:45 am]

BILLING CODE 3640-04-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31290; File No. SR-MSTC-92-07]

Self-Regulatory Organization; Midwest Securities Trust Company; Notice of Filing of Proposed Rule Change Relating to Non-Transferable Securities

October 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 18, 1992, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-MSTC-92-07) as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MSTC proposes to amend its rules and adopt procedures so as to enable it to provide safekeeping and limited depository services for non-transferable securities. The proposed rule change in conjunction with the implementation of new procedures will allow non-transferable securities to be deposited in MSTC either through physical delivery or by book-entry. In the case of physical deliveries, MSTC will physically inspect the security to verify that the securities are in proper form for good delivery to MSTC. At the time of delivery, participants will provide a warranty and indemnification to the depository to protect the depository against the possibility that the security might become transferable in the future. In addition to physical deposits, all incoming inter-depository book-entry movements of the non-transferable securities will be permitted. Once deposited, MSTC will make sure that the security has a CUSIP number, and if not, MSTC will assign a specific identification number to the security.

Under new procedures, MSTC will revalidate the continuing non-transferable status of each security on a semi-annual basis and provide participants with the last date of revalidation, thereby reducing the cost that participants currently incur by individually monitoring each issue. In addition, where appropriate, the depository will promptly restore a security to full eligibility requirements for normal depository processing. Finally, at the time of regained transferability, the depository will forward all prior participant deposits to the transfer agent for re-registration into the name of the depository's nominee. Rejected transfers would be reclaimed to the original depositing participant in accordance with the depository's current reclamation procedures.

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 basic for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish rules and procedures that will better enable MSTC to provide safekeeping and limited depository services for non-transferable securities. Securities may become non-transferable for a number of reasons, including the bankruptcy or insolvency of the issuer, failure to pay fees to a transfer agent, a final or complete liquidation of the issuer, the filing of a certificate of dissolution, placement of the issuer in receivership, or revocation of the issuer's charter. Currently, non-transferable securities are eligible for limited clearing and depository services.

In prior years, when a depository eligible security became non-transferable, depositories declared the security "ineligible" and distributed certificates to participants to the extent properly denominated certificates were available. When such certificates were unavailable, remaining participant positions were "frozen" in some fashion within the depositories to prevent further processing activities. This presented a variety of problems. Because no clearing or book-entry services were available, settlement could occur only by physical delivery or via a cumbersome process which debited a delivering participant and credited a receiving participant with the depository. In this environment, failed deliveries occurred regularly and remained outstanding as the result of trading and account transfer activity. Participants were burdened with the expense of safekeeping certificates exited by the depositories and monitoring the ongoing transferability status of the securities. Participants forced to assume these responsibilities individually developed procedures and practices to address this burden.

Over the past two years, depositories and clearing corporations have ameliorated this situation somewhat. Now, instead of declaring a security "ineligible" securities can be designated "inactive." This designation permits a more flexible determination of the specific types of services to be provided. Most depositories and clearing corporations now act to restrict continuous-net-settlement, deposit, withdrawal, and transfer activity for non-transferable securities, while permitting book-entry deliveries. This action has stopped the outflow of non-transferable securities from the depositories and permitted the settlement of fails to the extent a deliverer has a sufficient position with the depository at the time a security is designated inactive. However, participants must continue to safekeep certificates exited by depositories in prior years, in addition to safekeeping those securities registered in customer or firm name that the depositories will not currently accept as deposits, because they cannot be registered in the name of the depositories' nominees. The costs, burdens, and risks of this safekeeping by participants are in fundamental contradiction to the goals of the national system of clearance and settlement.

The problem of adequately monitoring non-transferable securities to identify a change in transferable status is also of concern to participants. Because of tax considerations, it is often necessary for participants to verify whether a non-transferable security is worthless. Moreover, verification is important because it will allow participants to strike the position from their records. Under current procedures, it is extremely time consuming and cumbersome for participants to verify that a security is non-transferable and to ascertain whether the security has, to the best of anyone's knowledge, been declared worthless. As each participant is verifying and validating non-transferable securities independently, enormous time, money, and resources are wasted. In response to these concerns, MSTC, in conjunction with the

[1] 15 U.S.C. 78s(b)(1) (1988).

Midwest Clearing Corporation, has developed a method of providing safekeeping and limited depository services for non-transferable securities which benefits from MSTC's economies of scale.

The proposed rule change is consistent with section 17A(b)(3)(A) of the Act in that it will facilitate the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule change received favorable comments from participants.

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 reason for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule 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 above-mentioned self-regulatory organization. All submissions should refer to File No. SR-MSTC-92-07 and should be submitted by November 4, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24899 Filed 10-13-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31291; File No. SR-NYSE-92-12]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change Relating to Publication of Market-on-Close Imbalances

October 6, 1992.

I. Introduction

On May 19, 1992, the New York Stock Exchange, Inc. ("NYSE" of "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to the publication of market-on-close ("MOC") imbalances. Notice of the proposal appeared in the **Federal Register** on June 8, 1992.[3] On September 30, 1992, the NYSE submitted Amendment No. 1 to clarify certain language in its Information Memo to NYSE Members and Member Organizations.[4]

II. Description of the Proposal

The proposed rule change would require, for non-expiration Friday trading days,[5] the dissemination of MOC order imbalances of 50,000 shares or more as soon as practicable after 3:45 p.m.[6] This dissemination requirement only would apply to stocks that are currently identified as expiration Friday "pilot stock".[7]

Additionally, the NYSE's proposal would require that MOC imbalances of 50,000 shares or more be disseminated on the trading day that stocks are to be added to or dropped from an index after the close of trading on that day. More specifically, this portion of the proposed policy provides that, upon notification by the specialist in the subject security, the Exchange will publish on the tape, as soon as practicable after 3:45 p.m., any MOC imbalance of 50,000 shares or more in any stock which is to be added to or dropped from the S&P 500, S&P 100 or MMI after the close of trading on that day. The policy further provides that, for a stock which after the close of trading is to be added to or dropped from an index other than one of the three major indexes previously listed, the specialist should notify a Floor Official if he has an imbalance of 50,000 share or more of MOC orders in such stock. The Floor Official will then determine whether to publish an imbalance of MOC orders greater than 50,000 shares in such stock on the tape.[8]

In its proposed rule change, the Exchange states that the proposal is designed to facilitate the dissemination of MOC imbalance information for pilot stocks on a daily basis. The Exchange believes that publication of such information may help attract contra side interest and minimize potential price volatility at the close in the subject securities. The Exchange notes that the publication of imbalance information for such stocks does *not* preclude the subsequent entry or cancellation of MOC orders on either side of the market in such stocks.[9]

III. Discussion

The Commission recognizes and supports the Exchange's desire to minimize volatility at the close. To date, the Exchange has adopted several initiatives designed to curb such

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] Securities Exchange Act Release No. 30767 (June 2, 1992), 57 FR 24283 (June 8, 1992).

[4] See letter from Brian M. McNamara, Managing Director, Market Surveillance, NYSE, to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated September 30, 1992, by which the NYSE clarified in its Information memo that other MOC procedures apply on expiration Fridays.

[5] Expiration Fridays are trading days when stock index futures, stock index options and options on stock index futures (collectively, "index derivative products") expire or settle concurrently.

[6] The Commission notes that procedures requiring the dissemination of imbalances of 50,000 shares or more have been in effect on monthly expiration Fridays since November 1988 on a pilot basis.

[7] The pilot stocks consist of the 50 highest-weighted Standard & Poor's ("S&P") 500 stocks, based on market values, and the 20 Major Market Index ("MMI") stocks.

[8] If a pilot stock was being added to or dropped from any index on an expiration Friday, however, the expiration Friday procedures would be applicable. Thus, the dissemination of an imbalance of 50,000 shares or more in the pilot stock would be required. Telephone conversation between Don Siemer, Director, Market Surveillance Division, NYSE, and Laurie Petrell, Division of Market Regulation, SEC, on July 31, 1992.

[9] The Commission notes that current NYSE rules preclude members from cancelling or reducing MOC orders in any NYSE-listed stock after 3:45 p.m. on expiration Fridays. See note 10 and accompanying text, *infra*.

volatility. For example, the Exchange has adopted specific auxiliary closing procedures to be utilized on expiration Fridays when the potential for market volatility is great due to the liquidation of stock positions relating to trading strategies involving index derivative products.[10] Moreover, the NYSE recently amended its auxiliary closing procedures applicable to expiration Fridays in order to help to further reduce potential volatility at the close. These newly adopted procedures require, among other things, that a MOC order in any NYSE-listed stock may not be cancelled or reduced in size after 3:45 p.m., and that the Exchange publish imbalances of 50,000 shares or more in the pilot stocks as soon as practicable after 3:45 p.m.[11]

In order to minimize volatility at the close, the NYSE now proposes procedures that would require, on all trading days other than expiration Fridays which are governed by other procedures,[12] the dissemination of MOC order imbalances of 50,000 shares or more in the pilot stocks as soon as practicable after 3:45 p.m. In addition, the proposal would also permit on any trading day, the dissemination of MOC order imbalances for stocks which are to be added to or dropped from an index after the close of trading on that day. According to the NYSE, the publication of such information may help attract contra-side interest, thereby minimizing potential price volatility at the close in the subject securities.

The Commission believes that the dissemination of imbalances on expiration Fridays have helped to alleviate the market stress caused by the liquidation of stock positions related to index derivative product trading strategies. These procedures have enabled NYSE specialists to attract contra-side interest to existing imbalances, and thus effectuate a more orderly closing. The NYSE proposal to require the publication of any imbalances in the pilot stocks as soon as possible after 3:45 p.m. on a daily basis should further help in this regard. The proposal should further ameliorate the problem of significant shifts in MOC imbalances near the close of the trading on all trading days, not only expiration Fridays. The procedures also should provide specialists with more time to attract contra-side interest, and reduce confusion over the size and direction of order imbalances, thereby leading to reduced volatility at the close.

As noted above, the Exchange recently amended its expiration Friday procedures to require the dissemination of imbalances of 50,000 shares or more in the pilot stocks as soon as practicable after 3:45 p.m. on expiration Fridays. Such requirement has been in place since April 10, 1992.[13] In this regard, the NYSE submitted a report to the Commission which provided data comparing the MOC imbalances and price changes in the pilot stocks for the February, March and April expiration Fridays. In the order approving the procedures on a permanent basis, the Commission stated its belief that, based on the data provided, the procedures worked well on the April 16, 1992 expiration. In this regard, the Commission is not aware of any systemic problems resulting from the dissemination of MOC imbalances of 50,000 shares or more in the pilot stocks on expiration Fridays. Moreover, the Commission does not have any reason to believe that the same procedures, when applied to non-expiration days, will adversely affect the market. Thus, the Commission believes that requiring specialists to disseminate MOC order imbalances of 50,000 shares or more in the pilot stocks on non-expiration days is reasonable and consistent with the Act.

In addition, the Commission believes that the NYSE proposal to disseminate imbalances for stocks which are to be added to or dropped from the S&P 100, S&P 500 or MMI after the close of trading on that day is reasonable. The proposal should reduce potential volatility resulting from the fact that such stock is being added to or dropped from an index. Further, the Commission finds appropriate the portion of the proposal requiring Floor Official approval before an imbalance of 50,000 shares or more is disseminated in any stock being added to or dropped from an index other than the S&P 100, S&P 500 or MMI.

For the reasons set forth above, the Commission believes that the proposal is consistent with section 6(b) of the Act. In particular, the Commission believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade, to facilitate transactions in securities, 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 this regard, the Commission believes that the proposal should augment the NYSE's current auxiliary closing procedures so as to further decrease the potential for volatility at the close. In addition, the Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed amendment simply clarifies language in the Information Memo to be issued in connection with the proposed rule change, and does not modify the proposal in any substantive manner.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. 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 SR–NYSE–92–12 and should be submitted by November 4, 1992.

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act [14] that the

[10] These procedures apply to the pilot stocks and require among other things, the entry by 3 p.m. of all MOC orders in positions relating to any trading strategy involving any index derivative products. Any MOC order entered after 3 p.m. must be solely to offset a published MOC imbalance. Such procedures also require that specialists make public MOC order imbalances of 50,000 shares or more as soon as possible after 3 p.m., then again after 3:30 p.m., and once again after 3:45 p.m.

[11] See Securities Exchange Act Release Nos. 30570 (April 10, 1992), 57 FR 13399 (approving these procedures for use on the April 16, 1992 expiration Friday only and soliciting comment on approving the procedures on a permanent basis) and 30680 (May 8, 1992), 57 FR 20720 (granting permanent approval to the procedures).

[12] As indicated above, current NYSE procedures require the dissemination of MOC imbalances of 50,000 shares or more in the pilot stocks on expiration Fridays as soon as practicable after 3:45 p.m. (*See* note 9, *supra*). These existing procedures will continue to govern the dissemination of imbalances in the pilot in the pilot stocks on expiration Fridays.

[13] *See* note 10, *supra.*

[14] 15 U.S.C. 78s(b)(2) (1988).

proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

[FR Doc. 92-24900 Filed 10-13-92; 8:45 am]

BILLING CODE 8010-01-M

(Release No. 34-31292; File No. SR-PHILADEP-92-05)

Self Regulatory Organizations; Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Depository Trust Company Relating to Transfer Fee Revision

October 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 27, 1992, the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PHILADEP proposes to assess revised, mutualized fees to participants for certain deposits and transfers in order to better recover the out-of-pocket costs incurred from transfer agents in order to provide these services by the Corporation. SR-PHILADEP-92-05 clarifies SR-PHILADEP-92-01 by stating that the fixed transfer fees are only applied when a transfer agent imposed a transfer fee.

(Brackets indicate the current fee and *italics* represent the revision.)

Certificate Costs

Effective as of June 29, 1992

[*Transfer and deposit activity subject to pass-through costs.]

[*Where applicable, transfer agent issuance fee = $5.75 per deposit and $7.50 per transfer.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filling with the Commission, the self-regulatory organization included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

PHILADEP seeks to revise its certificate fee for deposits and transfers to recover its out-of-pocket costs paid to transfer agents. The fee revision is based on one central premise. For certain non-NYSE issues, transfer agents charge certificate fees when new certificates are issued. Historically, PHILADEP has sought to recover its costs in this area for both deposits and transfers. However, transfer agents have been increasing individual certificate charges and PHILADEP now seeks to recover its out-of-pocket expenses through revised, fixed fees covering both transfers and deposits. The fixed transfer fees are only applied when a fee is imposed by the transfer agent. Careful review of these service fees discloses that PHILADEP continues to provide specific services at cost effective rates as compared to its competitor's fees.

By instituting and revising the new fee schedule, PHILADEP can continue to provide cost effective services.

The proposed rule change is consistent with section 17A(b)(3)(D) of the Act in providing for equitable allocations of reasonable dues, fees, and other charges among participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not perceive any burdens on competition as a result of the proposed rule change, which is intended to align more closely the charge for a particular service with the cost of producing it.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

A forthcoming SCCP/PHILADEP Member Bulletin will advise members of officials to whom they may direct questions upon receipt of the new fee schedule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b-4 thereunder because it establishes or changes a due, fee, or other charge of the self-regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at PHILADEP. All submissions should refer to file number SR-PHILADEP-92-05 and should be submitted by November 4, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24902 Filed 10-13-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

October 7, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

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[15] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 200.30-3(a)(1) (1991)

Belmac, Inc.
Common Stock, $.01 Par Value (File No. 7–9258)
Cheyenne Software, Inc.
Common Stock, $.01 Par Value (File No. 7–9259)
Foodmaker, Inc.
Common Stock, $.01 Par Value (File No. 7–9260)
John Alden Financial
Common Stock, $.01 Par Value (File No. 7–9261)
Texas Meridian Resources Corp.
Common Stock, No Par Value (File No. 7–9262)
Tandy Corp.
Depository Shares, 1/100 Pfd C, No Par Value (File No. 7–9263)
USX Delhi Group
Common Stock, $1.00 Par Value (File No. 7–9264)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 29, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity of hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 92–24839 Filed 10–13–92; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

October 6, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities and Exchange Commission of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Chart House Enterprises, Inc.
Common Stock, $.01 Par Value (File No. 7–9211)
Chase Manhattan Corp.
6¾% Pfd., Ser. B No Par Value (File No. 7–9212)
Chase Manhattan Corp.
7.604% Pfd., Ser. C No Par Value (File No. 7–9213)
Chase Manhattan Corp.
10½% Pfd., Ser. D No Par Value (File No. 7–9214)
Chase Manhattan Corp.
Pfd. Floating Rte., Ser. F No Par Value (File No. 7–9215)
Chase Manhattan Corp.
Cum. Pfd. Floating Rte., Ser. E No Par Value (File No. 7–9216)
Chase Manhattan Corp.
10½% Cum. Pfd., Ser. G (File No. 7–9217)
Chase Manhattan Corp.
9.76% Cum. Pfd., Ser. H No Par Value (File No. 7–9218)
Chase Manhattan Corp.
10.84% Cum. Pfd., Ser. I No Par Value (File No. 7–9219)
Chemical Banking Corp.
Depositary Shares, No Par Value (File No. 7–9220)
Chemical Banking Corp.
Adj. Rte. Cum. Pfd., Ser. B, No Par Value (File No. 7–9221)
Chemical Banking Corp.
Adj. Rte. Cum. Pfd., Ser. C., No Par Value (File No. 7–9222)
Chicago Milwaukee Corp.
$5.00 Prior Pfd., No Par Value (File No. 7–9223)
Cineplex Odeon Corp.
Common Stock, No Par Value (File No. 7–9224)
Citicorp
2nd Ser. Adj. Pfd., No Par Value (File No. 7–9225)
Citicorp
Adj. Rte. Pfd., 3rd Ser., No Par Value (File No. 7–9226)
Citicorp
Adj. Rte. Pfd., 4th Ser., No Par Value (File No. 7–9227)
Citicorp
9.12% Pfd., Ser. 9, No Par Value (File No. 7–9228)
Claire's Stores, Inc.
Common Stock, $.05 Par Value (File No. 7–9229)
Cleveland Electric Illuminating Co.
$7.40 Ser. Pfd., Ser. A, No Par Value (File No. 7–9230)
Cleveland Electric Illuminating Co.
$7.56 Ser. Pfd., Ser. B, No Par Value (File No. 7–9231)
Cleveland Electric Illuminating Co., Ser. Pfd. Adj. Rte., Ser. L, No Par Value (File No. 7–9232)
Coastal Corp.
$1.19 Cum. Conv. Pfd., Ser. A, $.33⅓ Par Value (File No. 7–9233)
Coastal Corp.
$1.83 Cum. Conv. Pfd., Ser. B, 33⅓ Par Value (File No. 7–9234)
Colgate Palmolive Co.
$4.25 Pfd., No Par Value (File No. 7–9235)
Colonial Intermarket Grade Municipal Trust Shares of Beneficial Interest, No Par Value (File No. 7–9236)
Comerica, Inc.
$4.32 Cum. Div. Pfd., Ser. B, No Par Value (File No. 7–9237)
Commonwealth Edison Co.
$2.375 Cum. Pfd., No Par Value (File No. 7–9238)
Commonwealth Edison Co.
$7.24 Cum. Pfd., No Par Value (File No. 7–9239)
Commonwealth Edison Co.
$8.40 Cum. Pfd., No Par Value (File No. 7–9240)
Commonwealth Edison Co.
$2.875 Cum. Pfd., No Par Value (File No. 7–9241)
Commonwealth Edison Co.
$8.40 Cum. Pfd., Ser. B, No Par Value (File No. 7–9242)
Commonwealth Edison Co.
$11.70 Cum. Pfd., No Par Value (File No. 7–9243)
Commonwealth Edison Co.
$8.38 Cum. Pfd., No Par Value (File No. 7–9244)
Comprehensive Care Corp.
Common Stock, $.10 Par Value (File No. 7–9245)
Computer Task Group, Inc.
Common Stock, $.01 Par Value (File No. 7–9246)
Consolidated Edison Co. of New York, Inc.
$5.00 Cum. Pfd., No Par Value (File No. 7–9247)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 29, 1992, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 92–24842 Filed 10–13–92; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

October 7, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following security:

Surgical Care Affiliates, Inc.
Common Stock, $.25 Par Value (File No. 7-9256)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 29, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-24840 Filed 10-13-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

October 7, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following security:

Resource Mortgage Capital, Inc.
Common Stock, $.01 Par Value (File No. 7-9248)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 29,1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-24838 Filed 10-13-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

October 7, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

UDC Homes, Inc.
Series B Pfd Stock, $0.01 Par Value (File No. 7-9250)
UDC Homes, Inc.
Prime Pfd Exchangeable Stock, $0.01 Par Value (File No. 7-9251)
UDC Homes, Inc.
Common Stock, $0.01 Par Value (File No. 7-9252)
UDC Homes, Inc.
Series A Pfd Stock, $0.01 Par Value (File No. 7-9253)
Centura Bank, Inc.
Common Stock, No Par Value (File No. 7-9254)
Comdisco, Inc.
8¾ Cum. Pfd Shares Series A $.10 Par Value (File No. 7-9255)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 29, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-24843 Filed 10-13-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19004; 812-7930]

Community Investment Partners II, L.P., et al.; Application

October 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Community Investment Partners II, L.P. (the "Partnership") and CIP Management, L.P. (the "Managing General Partner").

RELEVANT ACT SECTIONS: Order requested under section 6(c) granting an exemption from sections 2(a)(19) and 2(a)(3)(D) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order determining that (i) the Independent General Partners (as hereinafter defined) of the Partnership are not "interested persons" of the Partnership, the Managing General Partner, Edward D. Jones & Co., L.P. ("Jones"), or The Jones Financial Companies, a Limited Partnership ("JFC") solely by reason of being general partners of the Partnership and co-partners of the Managing General Partner, (ii) the Independent General Partners of the Partnership will not be deemed to be "interested persons" of such Partnership solely by virtue of their

service as independent general partners of Community Investment Partners, L.P. ("CIP I"), and (iii) persons who become limited partners (the "Limited Partners") of the Partnership who own less than 5% of the limited partnership interests in the Partnership will not be "affiliated persons" of the Partnership or any of its other partners solely by reason of their status as Limited Partners.

FILING DATE: The application was filed on May 27, 1992 and amended on September 11, 1992. Applicants' counsel has stated that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 2, 1992 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, D.C. 20549. Applicants, c/o Daniel A. Burkhardt, Edward D. Jones & Co., 201 Progress Parkway, Maryland Heights, Missouri 63043.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Staff Attorney, at (202) 504–2406, or Barry D. Miller, Senior Special Counsel at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnership is a recently formed limited partnership organized under Missouri law that will be governed by an Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement"). The Partnership has elected to be a business development company pursuant to section 54(a) of the Act. As a business development company, the Partnership will be subject to sections 55 through 65 of the Act and to those sections of the Act made applicable to business development companies by section 59 thereof. The Partnership will terminate no later than December 31, 2007, subject to the right of the Individual General Partners (as hereinafter defined) to extend the term for up to two additional two-year periods. The Partnership has been organized as a limited partnership because it is believed that the partnership form is a more appropriate investment vehicle for a closed-end entity of limited duration that will make a limited number of investments.

2. On May 14, 1992, the Partnership filed a registration statement on Form N–2 under the Securities Act of 1933 with respect to a "best efforts" offering by the Partnership of up to 200,000 (subject to a minimum requirement of 40,000) units of limited partnership interest in the Partnership (the "Units"). Jones, a registered broker-dealer, will be the selling agent for the Units.

3. The General Partners of the Partnership will consist of the Individual General Partners and the Managing General Partner. The Individual General Partners will include (i) the Independent General Partners (defined to be natural persons who are not "interested persons" of the Partnership within the meaning of the Act) and/or (ii) any natural person who becomes a successor or additional Independent General Partner. The Independent General Partners will include (i) the Independent General Partners and (ii) any natural person who becomes a successor or additional Independent General Partner as provided in the Partnership Agreement. The Independent General Partners will be the same individuals who currently serve as the independent general partners of CIP I. The Partnership Agreement will provide that there must be at least two but no more than six Individual General Partners and that a majority of the General Partners must be Independent General Partners. The Partnership Agreement will provide that if at any time the number of Independent General Partners is less than a majority of the General Partners, then within 90 days thereafter, the remaining Individual General Partners shall designate and admit one or more successor Independent General Partners so as to restore the number of Independent General Partners to a majority of the General Partners.

4. The Managing General Partner and the Independent General Partners are the managing general partner and independent general partners, respectively, of the Partnership and CIP I, a Missouri limited partnership that is regulated as a business development company under the Act and has investment objectives similar to those of the Partnership. The Managing General Partner is a limited partnership organized under Missouri law, the general partners of which are CIP Management, Inc. ("CIP, Inc.") and Daniel A. Burkhardt. Mr. Burkhardt is a general partner of JFC. CIP, Inc. is an indirect subsidiary of JFC, a Missouri limited partnership and the parent of Jones. The Managing General Partner is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act"). Under the Partnership Agreement, the Managing General Partner will be responsible for finding, evaluating, structuring, approving, monitoring and liquidating the Partnership's investment portfolio, subject to the supervision of the Individual General Partners, and for performing other functions traditionally carried out by the investment adviser to a business development company. The Managing General Partner will receive allocations and distributions under the Partnership Agreement. Under the Management Agreement, the Managing General Partner will perform the management and administrative services necessary for the operation of the Partnership. The Managing General Partner will receive as compensation for its services to the Partnership, a quarterly fee at an annual rate of 1.5% of the total assets of the Partnership as reflected in its most recent quarterly or annual balance sheet and will be reimbursed for its out-of-pocket expenses by the Partnership for its services as management company and investment adviser.

5. The Individual General Partners will have overall responsibility for the management of the Partnership, while the Managing General Partner will perform the obligations summarized above. The Individual General Partners will act by majority vote. The Individual General Partners will perform the same function as, and will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on, directors of a business development company under the Act. The Independent General Partners will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on directors, who are not interested persons, of a business development company. In addition to general fiduciary duties, the Independent General partners will, among other things, have responsibilities with respect to the management and underwriting arrangements of the Partnerships,

custody arrangements with respect to portfolio securities, fidelity bonding and transactions with affiliates.

6. The Limited Partners, who may include some employees or affiliates of Jones or JFC, will have no right to control the Partnership's business, but may exercise certain rights and powers of a Limited Partner under the Partnership Agreement, including voting rights and the giving of consents and approvals provided for in the Partnership Agreement. The Partnership Agreement will authorize Limited Partners to vote on certain matters, including the election or removal of General Partners, approval of the sale at any one time of all or substantially all of the assets of the Partnership, the right to approve amendments to the Partnership Agreement and the right to approve or to terminate any management agreement. The Limited Partners will be afforded all voting rights required by the Act. It is the opinion of Missouri counsel for the Partnership that the existence or exercise of these voting rights, in accordance with the terms and conditions thereof, will not subject the Limited Partners to liability as general partners under the Missouri Revised Uniform Limited Partnership Act ("MoRULPA"). If a Limited Partner transfers his interest in the Partnership in a manner which is effective under the Partnership Agreement, the Managing General Partner will either promptly consent to take all necessary actions to insure that such purchaser, assignee or transferee of record, as the case may be, shall become a substituted Limited Partner or, if such consent is withheld, the Managing General Partner shall exercise the voting rights under the Act in accordance with the written instructions of the purchaser, assignee or transferee of record, as the case may be.

7. An insurance policy which would provide coverage to persons who become Limited Partners in the Partnership has not been obtained as of the filing date of the application. First, the Partnership has been advised by counsel that the Units will constitute valid limited partnership interests in the Partnership and that subscribers to the Units will be limited partners of the Partnership entitled to all of the benefits of Limited Partners under the Partnership Agreement and the MoRULPA. The Limited Partners will not be permitted to participate in management of the Partnership, and the exercise of voting rights by the Limited Partners under the Partnership Agreement will be subject to nullification upon receipt of an opinion of counsel to the Partnership to the effect that there is a substantial likelihood that the exercise of such rights will adversely affect the limited liability of Limited Partners. Second, based upon the nature of the business to be conducted by the Partnership, the Partnership believes that the risk of liability for actions against the Limited Partners, including actions based on contract or tort claims, is remote. Third, the Partnership Agreement will obligate the General Partners of the Partnership to use their best efforts to take all the action which may be necessary or appropriate to protect the limited liability of the Limited Partners. The Independent General Partners will periodically review the question of the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

8. The Partnership Agreement will provide that any Individual General Partner may be removed either (i) for cause by the action of two-thirds of the remaining Individual General Partners; (ii) by failure to be re-elected by the Limited Partners at a special meeting held for such purpose; or (iii) with the consent of a majority-in-interest of the Limited Partners. The Partnership Agreement will also provide that the Managing General Partner may be removed either (i) by a majority of the Independent General Partners; (ii) by failure to be reelected by the Limited Partners at any special meeting held for such purpose; or (iii) with the consent of a majority-in-interest of the Limited Partners.

9. The Partnership Agreement will provide that the Managing General Partner will not resign or withdraw unless a successor managing general partner has been appointed and consented to by the Limited Partners of the Partnership in compliance with the Partnership Agreement and the provisions of sections 15(a), 15(c) and 15(f) of the Act. As will be set forth in the Partnership Agreement, the Managing General Partner may voluntarily resign or withdraw from the Partnership only upon compliance with certain specified procedures. These procedures are summarized as follows: (i) the Managing General Partner must, at least 60 days prior to such withdrawal, give notification to all Partners that it proposes to withdraw and that there be substituted in its place a person designated and described in such notification; (ii) a majority-in-interest of the Limited Partners must consent to the appointment of any successor managing partner; and (iii) the withdrawing Managing General Partner must cooperate fully with the successor managing general partner.

10. The Independent General Partners of the Partnership are the same individuals as the independent general partners of CIP I. The Commission has previously granted an exemptive order declaring that the independent general partners of CIP I are not "Interested persons" of CIP I or of the Managing General Partner. *Community Investment Partners, L.P.*, Investment Company Act Release Nos. 17317 (Jan. 22, 1990) (notice) and 17350 (Feb. 21, 1990) (order).

Applicants' Legal Analysis

1. Applicants request that the Independent General Partners be exempted from the provisions of section 2(a)(19) of the Act to the extent that the Independent General Partners would otherwise be deemed to be "interested persons" of the Partnership, the Managing General Partner, Jones, or JFC solely because such Independent General Partners are general partners of the Partnership and co-partners of the Managing General Partner. Section 2(a)(19) of the Act excludes from the definition of "interested person" of an investment company those individuals who would be "interested persons" solely because they are directors of an investment. The Partnership has been structured so that the Independent General Partners are the functional equivalents of, and will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on, the non-interested directors of an incorporated investment company.

2. Applicants believe that having the same individuals serve as the Independent General Partners of the Partnership and CIP I is in the best interests of the Limited Partners of both partnerships and will not result in any conflicts of interest affecting the operations of both partnerships or the interests of the Limited Partners. To the extent that common issues arise, such as fidelity bonding arrangements, relationships with independent public accountants and other matters affecting both the Partnership and CIP I partnerships, it is appropriate that the independent general partners have common identities. In this regard, the relationship is similar to having the same individuals serve as directors of all investment companies in the same complex. The legislative history of section 2(a)(19) notes that a director of one investment company would not ordinarily be deemed an interested person of that company by reason of being a director of another investment

company with the same adviser. H.R. Rep. No. 1382, 91st Cong., 2d sess. 14–15 (1970). Thus, applicants further request that the Independent General Partners of the Partnership be exempted from the provisions of section 2(a)(19) to the extent that they otherwise would be deemed to be "interested persons" of the Partnership solely by virtue of their service as Independent General Partners of CIP I under the circumstances where the Managing General Partner is the investment adviser to both partnerships.

3. Applicants request further that the Commission exempt all Limited Partners of the Partnership who own less than 5% of the Units of the Partnership from being deemed under section 2(a)(3)(D) of the Act to be "affiliated persons" of the Partnership or any of its other partners solely because such Limited Partner is a partner of the Partnership and any of such other persons are partners with one another in the Partnership. This will place investments in the Partnership on a footing more equal with investments in companies organized as corporations. Granting the requested exemption from the provisions of section 2(a)(3)(D) is consistent with the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Any relief granted under the application will be subject to the following conditions:

1. The General Partners, except the Managing General Partner, will be natural persons. A majority of the General Partners will not be interested persons of the Partnership.

2. The Individual General Partners will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on directors or general partners of a business development company. The Independent General Partners will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on directors or general partners who are not interested persons of a business development company.

3. The Partnership Agreement will provide that the Managing General Partner will not resign or withdraw unless a successor managing general partner has been appointed in accordance with the Partnership Agreement and the provisions of sections 15(a), 15(c), and 15(f) of the Act.

4. The Limited Partners of the Partnership will be afforded all of the voting rights required by the Act. The Partnership will obtain an opinion of counsel that the voting rights provided to the Limited Partners do not subject the Limited Partners to liability as general partners under Missouri law. If a Limited Partner transfers his interest in the Partnership in a manner which is effective under the Partnership Agreement, the Managing General Partner will either promptly consent to take all necessary actions to insure that such purchaser, assignee or transferee of record, as the case may be, shall become a substituted Limited Partner or, if such consent is withheld, the Managing General Partner shall exercise the voting rights under the Act in accordance with the written instructions of the purchaser, assignee or transferee of record, as the case may be.

5. The Partnership will obtain an opinion of counsel that the distributions and allocations provided for in the Partnership Agreement are permissible under section 205 of the Advisers Act and under section 15(a) of the Act. Except to the extent the Partnership Agreement provides for distributions of income or gain *pro rata* to all partners in proportion to their capital contributions, the Managing General Partner and all other investment advisers to the Partnership will not receive distributions or payments in respect of any portion of capital gains or capital appreciation if, as a result, amounts distributable or payable, in respect of capital gains or capital appreciation to such persons would exceed twenty percent (20%) of cumulative realized capital gains, net of realized capital losses and unrealized capital depreciation.

6. The Partnership will obtain an opinion of counsel that the current structure of the Partnership will entitle it to be taxed as a partnership for federal income tax purposes.

7. If, under the Partnership Agreement, the Partnership is or becomes authorized to make in-kind distributions of portfolio securities to its Partners, no such in-kind distributions will be made until such time as the Partnership has obtained a no-action letter from the staff of the Commission or, alternatively, has obtained an order pursuant to section 206A of the Advisers Act permitting such distribution.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–24901 Filed 10–13–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19005; 812–7835]

Smith Barney Equity Funds, Inc., et al.; Application

October 7, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Smith Barney Equity Funds, Inc., Smith Barney Funds, Inc., Smith Barney Money Funds, Inc., Smith Barney Muni Bond Funds, Smith Barney Tax Free Money Fund, Inc., Smith Barney World Funds, Inc., and any open-end management investment companies that in the future become members of the Smith Barney, Harris Upham & Co. Incorporated ("Smith Barney") "group of investment companies" as defined in rule 11a–3 under the Act and whose shares are distributed on substantially the same basis as those of the existing funds (collectively, the "Funds"), Mutual Management Corp. ("MMC"), Smith, Barney Advisers, Inc. ("SBA"), and Smith Barney.

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) for an exemption from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order under section 6(c) that would permit the Funds (a) to issue three classes of shares representing interests in the same portfolio of securities, and (b) to assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares of two of the classes, and to waive the CDSC in certain cases. A notice of the application was issued on August 28, 1992 (Investment Company Act Release No. 18914). Applicant subsequently amended the application for the purpose of changing the definition of investors who may purchase Class C shares. Prior to the amendment, the application stated that the Funds would offer Class C shares for purchase exclusively by investors with aggregate assets in the Funds of $500,000 or more. The amended application states that the Funds will offer Class C shares for purchase exclusively by investors with a minimum investment of $500,000, and that such minimum investment may be met, if the particular Fund and the distributor so permit, by aggregating the purchase with the net asset value of shares held by the investor in the Fund and all other Funds. This amended notice incorporates the change in the

application made by applicant's amendment.

FILING DATE: The application was filed on December 16, 1991, and amendments thereto were filed on February 13, 1992, July 15, 1992, and September 18, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 2, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Staff Attorney, at (202) 272-3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are open-end management investment companies registered under the Act. Several of the Funds consist of multiple investment portfolios or series, each of which has separate investment objectives and policies and segregated assets. Each Fund has entered into or will enter into a management agreement with either MMC or SBA. Each Fund has entered into or will enter into a distribution agreement with Smith Barney pursuant to which Smith Barney acts as principal underwriter for the Fund (the "Distributor").

2. Shares of the Funds currently are offered to the public at net asset value plus a front-end sales load. Certain of these Funds also pay fees to Smith Barney under rule 12b-1 plans. The remainder of the Funds currently offer their shares to investors subject to a front-end sales load but without imposition of a rule 12b-1 fee. Funds offered with a front-end sales load are collectively referred to herein as the "Front-End Load Funds." Also, certain of the Funds are money market funds which are offered on a no-load basis (the "Money Market Funds").[1]

3. Applicants seek an exemptive order that would permit the Funds to offer three classes of shares representing interests in the same portfolio of securities and to assess a CDSC on certain redemptions of shares of two of the classes.

a. The Alternative Distribution System

1. Applicants propose to establish an "Alternative Distribution System" that would be implemented by each of the Funds creating two additional classes of shares so that each Fund will offer three classes of shares. Class A would be offered subject to a conventional front-end sales load. Class A shareholders of certain Funds also would be assessed an ongoing service fee under a rule 12b-1 plan based upon a percentage of the average daily net asset value of the Class A shares (expected to be an annual rate of up to 0.25%).

2. Class B shares would be subject to a service fee at an annual rate of up to 0.25%, and a distribution fee at an expected annual rate of up to 0.75%, of average daily net assets pursuant to a rule 12b-1 plan. In addition, an investor's proceeds from a redemption of Class B shares made within a specified period (expected to be 18 months) of his or her purchase may be subject to a CDSC, which would be paid to the distributor.

3. Class C shares would be offered for purchase exclusively by investors with a minimum investment of $500,000. Such minimum investment may be met, if the Fund and the Distributor so permit, by aggregating the purchase with the net asset value of shares held by the investor in the Fund and all other Funds. Class C shares would pay a service fee at an annual rate of up to 0.25% of average daily net assets pursuant to a rule 12b-1 plan. An investor's proceeds from a redemption of Class C shares made within a specified period (expected to be 18 months) of his or her purchase also may be subject to a CDSC.

4. Income would be allocated to each class of shares based on the relative net asset value of each class. Expenses would be allocated to each class based on the relative net asset value of each class, except that each class's net asset value and expenses would reflect the expenses of the Class A, Class B, and Class C rule 12b-1 plans, any expenses that are directly attributable to one class ("Class Expenses"), and any incremental expenses properly attributable to one class which the Commission shall approve by an amended order. Because of the ongoing distribution fee and potentially higher Class Expenses (specifically as a result of a higher transfer agency fee) paid by the holders of Class B shares and the potentially higher Class Expenses paid by holders of Class C shares, the net income attributable to and the dividends payable on both Class B shares and Class C shares would be lower than the net income attributable to and the dividends payable on Class A shares. To the extent that a Fund has undistributed net income, the net asset value of the Class A shares would be higher than the net asset value of either the Class B shares or Class C shares.

5. Currently, shares of Front-End Load Funds may be exchanged at net asset value for shares of other Front-end Load Funds and shares of the Money Market Funds. It is contemplated that Class A shares of a Fund would be exchangeable only for Class A shares of the other Funds, including Class A shares of the Money Market Funds. Class B shares of a Fund would be exchangeable only for Class B shares of the other funds, including Class B shares of the Money Market Funds. Similarly, Class C shares of a Fund would be exchangeable only for Class C shares of the other Funds, including Class C shares of the Money Market Funds. Money Market Fund shares would be exchangeable for either Class A shares, Class B shares, or Class C shares only if the Money Market Fund shares were originally acquired through an exchange, in which case they would be exchangeable only for the class of shares involved in the original exchange into the Money Market Fund shares. The exchange privileges applicable to the Class A, Class B, and Class C shares would comply with rule 11a-3 under the Act.

B. The CDSC

1. Applicants propose to charge a CDSC on certain redemptions of Class B and Class C shares of the Funds and to waive the CDSC on certain redemptions. The amount of any applicable CDSC would be calculated as being the lesser of the amount that represents a specified percentage of the net asset value of the shares at the time of purchase, or the amount that represents the same or

[1] It is anticipated that the Money Market Funds will continue to be offered without the imposition of a front-end sales load. The Money Market Funds are parties to this application because they are requesting an order exempting their proposed issuance and sale of three classes of shares so that they may participate in exchanges with the other Funds and impose a CDSC, as set forth below.

lower percentage of the net asset value of the shares at the time of redemption. Currently, the CDSC is expected to be 1.00% for Class B and 1.50% for Class C shares (but may be higher or lower). Any changes in the amount of the CDSC would not affect shares that have already been issued.

2. The CDSC would not be imposed on redemptions of Class B and Class C shares which were purchased more than 18 months prior to the redemptions (the "CDSC Period") or on Class B or Class C shares derived from reinvestment of distributions. Furthermore, no CDSC would be imposed on an amount which represents an increase in the value of the shareholder's account resulting form capital appreciation above the amount paid for shares purchased during the CDSC Period. In determining the applicability of any CDSC, it will be assumed that a redemption is made first of shares representing reinvestment of dividends and capital gain distributions and finally of other shares held by the shareholder for the longest period of time.

3. The Funds request relief to waive the CDSC (a) on redemptions following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code of 1986, as amended (the "Code"), of a shareholder; (b) in connection with qualified retirement plan distributions which are permitted to be made without penalty pursuant to the Code; (c) in connection with redemptions of shares made pursuant to a shareholder's participation in any systematic withdrawal plan adopted by a Fund; (d) in connection with redemptions by tax-exempt employee benefit plans resulting from the enactment or promulgation of any law or regulation pursuant to which continuation of the investment in the Funds would be improper; and (e) in connection with the exercise of exchange privileges among the Class B or Class C shares of the Funds. If the Funds waive the CDSC, such waiver will be uniformly applied to all offerees in the class specified. In waiving a CDSC, the Funds will comply with the requirements of rule 22d–1 as if the CDSC were a sales load. If the directors or trustees (the "Directors/Trustees") of a Fund which has been waiving its CDSC pursuant to any of the items set forth above determine not to waive such CDSC any longer, the disclosure in that Fund's prospectus will be appropriately revised. Also, any Class B and Class C shares purchased prior to the termination of such waiver would be able to have the CDSC waived as provided in a Fund's prospectus at the time of the purchase of such shares.

Applicants' Legal Analysis

A. The Alternative Distribution System

1. Applicants seek an exemption from sections 18(g), 18(f)(1), and 18(i) to the extent the Alternative Distribution System may result in a senior security, as defined by section 18(g), the issuance and sale of which would be prohibited by section 18(f)(1), and to the extent the allocation of voting rights under the Alternative Distribution System may violate the provisions of 18(i). Applicants believe that the Alternative Distribution System does not raise any of the legislative concerns that section 18 of the Act was designed to ameliorate. The proposal does not involve borrowings and does not affect the Funds' existing assets or reserves. Each class of shares will be redeemable at all times. No class of shares will have preference or priority over any other class of the Fund in the usual sense (that is, no class will have distribution or liquidation preferences to particular assets and no class will be protected by any reserve or other account).

2. Owners of each class of shares may be relieved under the Alternative Distribution System of a portion of the fixed costs normally associated with investing in mutual funds since such costs would, potentially, be spread over a greater number of shares than they would be otherwise. Similarly, the owners of Class A, Class B, and Class C shares in those Funds with management agreements under which the fee rates decrease as the net assets of the particular Fund increase could expect to enjoy, under the Alternative Distribution System, lower effective management fee rates than they would enjoy if the arrangement is not implemented.

3. Applicants assert that the Alternative Distribution System would provide a meaningful choice for public investors. Applicants believe that the proposed allocation of expenses and voting rights relating to the rule 12b–1 plans in the manner described above is equitable and would not discriminate against any group of shareholders. In addition, such arrangements should not give rise to any conflict of interest because the rights and privileges of each class of shares are substantially identical.

B. The CDSC

1. Section 2(a)(32) of the Act defines redeemable security to be a security that, upon presentation to the issuer or to a person designated by the issuer, entitles the shareholder to receive approximately his proportionate share of the issuer's current net assets. Applicants assert that the imposition of the CDSC will not restrict a shareholder from receiving a proportionate share of the current net assets, but merely will defer the deduction of a sales charge and make it contingent upon an event that may never occur. However, to avoid uncertainty in this regard, applicants request an exemption from the operation of section 2(a)(32) of the Act to the extent necessary to permit the imposition of the proposed CDSC.

2. Section 2(a)(35) of the Act defines a sales load to be the amount properly chargeable to sales or promotional expenses that are paid at the time the securities are purchased. Applicants will pay the CDSC to the Distributor to reimburse it for expenses related to the sales of shares. Applicants contend that the deferral of the sales charge, and its contingency upon the occurrence of an event that may not occur, does not change the basic nature of this charge, that is in every other respect a sales charge. Nevertheless, applicants request an exemption from the provisions of section 2(a)(35) to the extent necessary to implement the proposed charge in connection with the Class B and Class C shares of the Funds.

3. Section 22(c) of the Act and rule 22c–1 thereunder require that the price of a redeemable security issued by an open-end management company for purposes of sale, redemption and repurchase be based on the company's current net asset value. Applicants contend that the redemption price of their shares is based on current net asset value. Applicants assert that the CDSC is deducted at the time of redemption in arriving at a shareholder's proportionate redemption proceeds. However, to avoid any question as to the potential applicability of section 22(c) and rule 22c–1, applicants request an exemption from rule 22c–1 to the extent necessary to permit applications to impose the proposed CDSC.

4. Applicants request an exemption from the provisions of section 22(d) of the Act to permit the waiver of the CDSC as described in this notice. Section 22(d) requires a registered investment company, principal underwriter or dealer in redeemable securities to sell those securities only at a current public offering price described in the company's prospectus. Subject to certain conditions, rule 22d–1 provides an exemption from section 22(d) allowing investment companies to vary or eliminate sales loads to different classes of investors. The CDSC and the waivers therefrom will be applied as described in the Fund's and Portfolio's registration statements. However, to preclude any assertion that rule 22d–1 is

inapplicable to the CDSC, applicants request an exemption from section 22(d) to the extent necessary or appropriate to implement the CDSC and waivers therefrom as described above.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

A. Conditions Relating to the Alternative Distribution System

1. Each class of shares will represent interests in the same portfolio of investments of a Fund and be identical in all respects, except as set forth below. The only differences among various class of shares of the same Fund will relate solely to: (a) the impact of the respective rule 12b–1 plan payments made by each of the Class A shares, Class B shares, and Class C shares of a Fund, any Class Expenses that may be imposed upon a particular class of shares and which are limited to (i) transfer agency fees attributable to a specific class of shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxies to current shareholders of a specific class; (iii) blue sky registration fees incurred by a class of shares; (iv) Commission registration fees incurred by a class of shares; (v) the expenses of administrative personnel and services as required to support the shareholders of a specific class; (vi) litigation or other legal expenses relating solely to one class of shares; (vii) Directors/Trustees' fees incurred as a result of issues relating to one class of shares; and (viii) any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order, (b) voting rights on matters which pertain to rule 12b–1 plans, (c) the different exchange privileges of the various classes of shares as described in the prospectuses (and as more fully described in the statements of additional information) of the Funds, and (d) the designation of each class of shares of a Fund.

2. The Directors/Trustees of each of the Funds, including a majority of the Independent Directors/Trustees, shall have approved the Alternative Distribution System prior to the implementation of the Alternative Distribution System by a particular Fund. The minutes of the meetings of the Directors/Trustees of each of the Funds regarding the deliberations of the Directors/Trustees with respect to the approvals necessary to implement the Alternative Distribution System will reflect in detail the reasons for determining that the proposed Alternative Distribution System is in the best interests of both the Funds and their respective shareholders and such minutes will be available for inspection by the Commission staff.

3. The initial determination of Class Expenses, if any, that will be allocated to a particular class of a Fund and any subsequent changes thereto be reviewed and approved by a vote of the Directors/Trustees including a majority of the Independent Directors/Trustees. Any person authorized to direct the allocation and disposition of the monies paid or payable by the Fund to meet Class Expenses shall provide to the Directors/Trustees, and the Directors/Trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Directors/Trustees of the Funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts among the interests of the various classes of shares. The Directors/Trustees, including a majority of the Independent Directors/Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Manager and the Distributor will be responsible for reporting any potential or existing conflicts to the Directors/Trustees. If a conflict arises, the Manager and the Distributor at their own costs will remedy such conflict up to and including establishing a new registered management investment company.

5. Any rule 12b–1 plan adopted or amended to permit the assessment of a rule 12b–1 fee on any class of shares which has not had its rule 12b–1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such of shares first becomes effective.

6. The Directors/Trustees of the Funds will receive quarterly and annual statements complying with paragraph (b)(3)(iii) of rule 12b–1, as it may be amended from time to time. In the statements, only distribution expenditures properly attributable to the sale of a class of shares will be used to support the rule 12b–1 fee charged to shareholders of such class of shares. Expenditures not related to the sale of a specific class of shares will not be presented to the Directors/Trustees to support rule 12b–1 fees charged to shareholders of such class of shares. The statement, including the allocations upon which they are based, will be subject to the review and approval of the Independent Directors/Trustees in the exercise of their fiduciary duties under rule 12b–1.

7. Dividends paid by a Fund with respect to each class of shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day and will be in the same amount, except that fee payments made under the rule 12b–1 plans relating to the Class A, Class B, and Class C shares, respectively, will be borne exclusively by each such class and except that any Class Expenses will be borne by the applicable class of shares.

8. The methodology and procedures for calculating the net asset value and dividends/distributions of the various classes and the proper allocation of income and expenses among such classes has been reviewed by an expert (the "Independent Examiner"). The Independent Examiner has rendered a report to the applicants, which has been provided to the staff of the Commission, stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner, subject to the conditions and limitations in that report. On an ongoing basis, the Independent Examiner, or an appropriate substitute Independent Examiner, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Independent Examiner shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Independent Examiner with respect to such reports, following request by the Funds which the Funds agree to make, will be available for inspection by the Commission staff upon the written request for such work papers by a senior member of the Division of Investment Management or of a Regional Office of the Commission, limited to the Director, an Associate Director, the Chief Accountant, the Chief

Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Independent Examiner is a "Special Purpose" report on the "Design of a System," and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. The applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions among the various classes of shares and the proper allocation of income and expenses among such classes of shares and this representation has been concurred with by the Independent Examiner in the initial report referred to in condition (8) above and will be concurred with by the Independent Examiner, or an appropriate substitute Independent Examiner, on an ongoing basis at least annually in the ongoing reports referred to in condition (8) above. The applicants agree to take prompt corrective action if the Independent Examiner, or appropriate substitute Independent Examiner, does not so concur in the ongoing reports.

10. The prospectuses of the Funds will include a statement to the effect that an account executive and any other person entitled to receive compensation for selling shares of the Fund may receive different levels of compensation for selling Class A shares, Class B shares, or Class C shares.

11. The Distributor will adopt compliance standards as to when Class A shares, Class B shares, and Class C shares may appropriately be sold to particular investors. The applicants will require all persons selling shares of the Funds to agree to conform to such standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and liabilities of the Directors/Trustees of the Funds with respect to the Alternative Distribution System will be set forth in guidelines which will be furnished to the Directors/Trustees as part of the materials setting forth the duties and responsibilities of the Directors/Trustees.

13. Each Fund will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares offered through the prospectus. Class A, Class B, and Class C shares will be offered and sold through a single prospectus. Each fund will disclose the respective expenses and performance data applicable to all classes of shares in very shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to Class A, B, or C shares, it will disclose the expenses and/or performance data applicable to the three classes. The information provided by the applicants for publication in any newspaper or similar listing of the Funds' net asset values and public offering prices will separately present Class A, Class B, and Class C shares.

14. The applicants acknowledge that the grant of the exemptive order requested by this application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b–1 plans in reliance on the exemptive order.

B. Conditions Relating to the CDSC

1. The applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–24898 Filed 10–13–92; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

National Advisory Council; Public Meeting

The U.S. Small Business Administration, National Advisory Council, will hold a public meeting from 3 p.m. on Wednesday, October 14, 1992 to 12 noon on Friday, October 16, 1992, at the Hyatt Hotel/LAX Airport location, 6225 W. Century Blvd., Los Angeles, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Dorothy Overal, Office of Advisory Councils, U.S. Small Business Administration, 409 Third Street, SW., suite 5525, Washington, DC 20416, (202) 205–7650.

Dated: October 5, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92–24851 Filed 10–13–92; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective January 1, 1992, NCNB Texas National Bank, Dallas, Texas, changed its name to NationsBank of Texas, National Association.

Dated: October 7, 1992.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 92–24848 Filed 10–13–92; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570–1992 Rev., Supp. No. 3]

Surety Companies Acceptable on Federal Bonds Termination of Authority: Regency Insurance Company

Notice is hereby given that the Certificate of Authority issued by the Treasury to Regency Insurance Company, of Hallandale, Florida, under the United States Code, title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 56 FR 30159, July 1, 1991 and on March 11, 1992 the company was suspended.

With respect to any bonds currently in force with Regency Insurance Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, telephone (202/FTS) 874–6507.

Dated: October 5, 1992.

Diane E. Clark,

Assistant Commissioner, Financial Information, Financial Manager Service.

[FR Doc. 92–24857 Filed 10–13–92; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 199
Wednesday, October 14, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in the Subject Matter of a Previously Announced Open Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that, at its open meeting scheduled for 10:00 a.m. on Tuesday, October 13, 1992, the Board of Directors of the Federal Deposit Insurance Corporation is likely to consider, in addition to the matters already scheduled for consideration at that meeting, the staff's recommendations for the Corporation's implementation of section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991, which requires the Federal banking agencies to adopt uniform regulations prescribing standards for real estate lending by insured depository institutions, taking into consideration the risk to the deposit insurance funds posed by such extensions of credit, the need for safe and sound operation of insured institutions, and the availability of credit.

The meetimg will be held in the Board Room of the FDIC Building located at 550 — 17th Street, NW., Washington, DC.

Dated: October 8, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-24945 Filed 10-9-92; 9:38 am]

BILLING CODE 6714-0-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 12, 19, 26, and November 2, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 12

Wednesday, October 14

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, October 16

2 p.m.
Discussion of Nuclear Safety and Safeguards in the Former Soviet Union and Eastern Europe (Closed—Ex. 1)

Week of October 19—Tentative

Wednesday, October 21

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Commission Order—In the Matter of Geo-Tech Associates (Tentative)
b. Final Rule Regarding Clarification of Statutory Authority for Purposes of Criminal Enforcement (Tentative)

Week of October 26—Tentative

Tuesday, October 27

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 2—Tentative

Monday, November 2

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETING CALL (RECORDING): (301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504-1661.

Dated: October 8, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92-25051 Filed 10-9-92; 2:11 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 57, No. 199
Wednesday, October 14, 1992

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

Food and Nutrition Service

7 CFR Part 275

[Amdt No. 327]

Food Stamp Program; Good Cause Relief From Quality Control Error Rate Liabilities

Correction

In rule document 92–23315 beginning on page 44481 in the issue of Monday, September 28, 1992, make the following corrections:

1. On page 44481, in the third column, in the next to last full paragraph, in the second line, "food" should read "good".

2. On page 44483, in the first column, in the last full paragraph, in the sixth line, "food" should read "good".

§ 275.23 [Corrected]

3. On page 44487, in the first column, under § 275.23(e)(6)(i)(A)(*9*), in the fifth line from the top of the page, "disorder of" should read "disorder or".

4. On the same page, in the same column, under § 275.23(e)(6)(i)(B)(*1*), in the second line, after "clerks" insert ",".

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–502]

Certain Iron Construction Castings From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

Correction

In notice document 92–13389 beginning on page 24245 in the issue of Monday, June 8, 1992, make the following correction:

On page 24245, in the second column, under **SCOPE OF THE REVIEW**, in the first paragraph, in the sixth line from the bottom, "7352.10.00.00" should read "7325.10.00.00".

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 92–23379, beginning on page 44361, in the issue of Friday, September 25, 1992 make the following correction:

On page 44361, in the second column, in the fifth line from the bottom of the page, the zip code should read "02882".

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket Nos. 92–119–NG, 92–120–NG]

Multi-Energies Inc. and The Brooklyn Union Gas Co.; Applications for Blanket Authorization to Import and Export Natural Gas

Correction

In notice document 92–24243, beginning on page 46020 in the issue of Tuesday, October 6, 1992 make the following correction:

On page 46020, in the third column, in the **DATES** section the last line should read "time, November 5, 1992."

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 92–70–NG]

Saranac Power Partners, L.P.; Application To Import Natural Gas From Canada

Correction

In notice document 92–22954 beginning on page 43729 in the issue of Tuesday, September 22, 1992, on page 43729, in the third column, under **DATES**, "November 23, 1992." should read "October 22, 1992."

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

29 CFR Part 541

RIN 1215–AA65

Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity (Including any Employee Employed in the Capacity of Academic Administrative Personnel or Teacher in Elementary or Secondary Schools), or in the Capacity of Outside Salesman)"

Correction

In rule document 92–24639 beginning on page 46742 in the issue of Friday, October 9, 1992, make the following corrections:

§ 541.303 [Corrected]

1. On page 46744, in the third column, in § 541.303(b)(2), in the fifth line, "a" should read "and".

2. On the same page, in the same column, in § 541.303(c), in the last line, "profession." should read "professions.".

3. On page 46745, in the second column, in § 541.303(e), in the second through fifth lines text should be deleted as set forth below.

"not within its scope, may also have managerial and administrative duties which may qualify the employees"

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 92–90]

RIN 1515–AA95

International, Landing Rights and User Fee Airports

Correction

In rule document 92–22698, beginning on page 43395 in the issue of Monday, September 21, 1992, make the following correction:

On page 43396, in the 1st column, in the 2d full paragraph, in the 15th line, "adequate" should read "inadequate"

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Wednesday
October 14, 1992

Part II

Department of Housing and Urban Development

24 CFR Part 10

Rulemaking Policies and Procedures—Expediting Rulemaking and Policy Implementation; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 10

[Docket No. R-92-1614; FR-3292-P-01]

Rulemaking Policies and Procedures—Expediting Rulemaking and Policy Implementation

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would amend 24 CFR part 10, HUD's "rule on rules," to make possible the more timely implementation of new and changed policies of the Department. The rule would redefine and limit the conditions under which notice and comment rulemaking will be required as a matter of departmental policy. The purposes of the proposed rule are: To improve HUD's responsiveness in implementing programmatic changes and national housing and economic development policies; to assure prompt delivery of program benefits provided for in new and amended statutes; to provide greater flexibility to HUD and to recipients of HUD assistance in the management and administration of HUD-assisted activities; to enable the Department, in accordance with the Administrative Procedure Act, to determine the most appropriate form of policy guidance and instruction; and to avoid unnecessary and unduly prescriptive rulemaking.

DATES: Comments must be received by December 14, 1992.

ADDRESSES: Interested persons may submit comments regarding this 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. An original and four copies of comments should be submitted. 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. Facsimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: Eliot Horowitz, Office of the Assistant Secretary—Federal Housing Commissioner, room 9224, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (voice) (202) 708-1490, (TDD) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. *Backgound*

President Bush, in his 1992 State of the Union Address, asked federal departments and agencies to institute a 90-day moratorium (later extended for an additional 120 days) on any new federal regulations that could have the effect of hindering the nation's economic growth. Departments and agencies were asked to use the moratorium period to carry out a thorough review of regulations, old and new, in an effort to stop regulatory activities that did not contribute to growth, and to speed up those that would help to stimulate economic growth.

Responding to the President's direction, the Department of Housing and Urban Development undertook an assessment of all its regulations under development. Additionally, HUD enlisted public participation and the cooperation of its field offices in conducting an examination of regulations already in effect. These efforts led to the elimination of some regulation-drafting projects and the modification of others, as well as an examination (which is continuing) of certain of the Department's existing regulations.

The internal assessment of HUD's regulatory process concluded that the continuation of HUD's current regulatory policy—subjecting virtually all of the Department's programs and functions to notice and comment rulemaking before effectiveness—threatens to result in regulatory gridlock. Evidence showed that the implementation of many statutory changes had been delayed. In some cases, the public cost of delaying actions can be significant.

At the time the moratorium was announced, HUD had more than 170 pending regulations under development. The Department, more or less continuously for the past decade, has carried a regulations development workload of approximately this size and scope. As is illustrated by the Department's published semiannual agendas of regulations, many of these regulations development projects are retained in the Department's workload as work in progress for a period of years. If current policies continue without change, this volume can only be expected to increase as additional statutory changes and new programs are added. Already, the size and scope of HUD's regulatory agenda taxes the agency's ability to make timely changes. While the Department systematically sets priorities for rule development projects to assure the timely development of its most important initiatives, many less critical projects remain undeveloped for lack of the necessary staff resources to reach them and undertake their development and clearance.

Today's environment demands institutions that are flexible and adaptable. The new realities confronting all levels of government require institutions that are mission-driven, as opposed to rules-driven. The form of guidance and instruction HUD provides should complement HUD's need to adapt to changing conditions and to find new and better ways for preventing problems and delivering effective and efficient services.

Under existing policy, most changes to HUD's policies, programs, or guidance must be set our in regulations before implementation is permitted. The Department has concluded that its ability to provide services to the public could be improved dramatically by developing an array of alternatives to notice and comment rulemaking. The Department has no intention of attempting to replace rulemaking altogether. Much more frequently, however, the Department will attempt, where legally permissible, to employ nonregulatory means of disseminating guidance concerning program operations. Additionally, when rulemaking is necessary, the Department needs, more often, to be free to make rules by summary means. To be responsive and true to its mission, HUD must have the flexibility to implement programmatic and policy changes quickly and effectively. To accomplish these goals requires amending HUD's "rule on rules" at 24 CFR part 10.

In 1971, the Department promulgated 24 CFR part 10, setting out the Department's intention formally to promulgate its rules and regulations, to give the public notice of them, and to "afford, wherever practicable * * * an opportunity to participate in their formulation through submission of written comments prior to the effective date." Section 10.5 of the 1971 rule stated that:

> The Department is exempt from the rulemaking procedures of 5 U.S.C. 553 with respect to the majority of its programs and functions. However, it will, although not required to do so, voluntarily publish in the **Federal Register** its rules and regulations * * * at least 30 days before their effective date to afford interested persons an opportunity to participate in the formulation of the final language of such rules and regulations * * *.

Part 10 was rewritten and expanded in January 1979. The 1979 revision

requires HUD to provide public participation in rulemaking for *all* HUD programs and functions—

including matters that relate to public property, loans, grants, benefits, or contracts *even though such matters would not otherwise be subject to rulemaking by law or Executive Order.* (24 CFR 10.1.) (Emphasis added.)

II. The Need for a Better Way

The Department recognizes that public participation in rulemaking, using notice-and-comment procedures comparable to those in the APA, can be protective of the public interest and helpful in policy development. However, much has changed since 1971, including an explosion of new statutory program responsibilities for HUD to administer, a much faster-paced schedule of legislative change, involving both the creation of new program authorities and the frequent, often intricate modification of existing authorities, and an array of new statutes and executive orders governing the policy making process of federal agencies.

Frequently, the Department's existing regulations contain instructions inconsistent with new legislation, and questions arise whether the new legislation alone is effective to overrule the existing regulation, or whether a regulatory change is a prerequisite to carrying out new statutory direction. Sometimes, this can be a difficult determination to make. Where new legislation requires that certain policy determinations be made by the Secretary in order to give full operative effect to the new statute, it is often concluded that the newly announced statutory purpose must await rulemaking. In instances where, as in the statutes passed in 1989 and 1990, the Congress' new directions are lengthy, complex, and multifaceted, the resources of the Department are severely strained in the effort necessary to convert the many new legislative amendments into working policy quickly and effectively.

An examination of HUD's experience, during the eight-year period during which a computerized record has been maintained, illustrates the severe time losses encountered by the Department in pursuing a general policy requiring notice and comment rulemaking. Virtually all of HUD's notices of proposed rulemaking have reflected fully developed (proposed) policies, written in regulatory language. The policy-formulation stage of development for these documents had been completed at the time of their publication for public comment.[1] To measure the time required by prior notice and public comment rulemaking, the Department reviewed all of its rules, developed from 1983 to the present, that (1) were initially published as proposed rules, and (2) were thereafter published for effect. In the survey of 147 rulemaking proceedings, the average time lost between publication of a proposed rule by the Department and that rule's republication for effect in final form was eleven and half months!

To assure against a result that might be distorted by taking into account the history of a few rules that were the subject of extreme delays, the conductor of this review then removed from consideration nine rulemaking proceedings, each of which had required more than 24 months between publication of a proposed rule and final rule. Even with this substantial adjustment to disregard the extreme cases, the survey showed that the average time between proposed and final rule remains in excess of nine months.[2]

Some of the time delays encountered in prior notice and comment rulemaking clearly are necessary. Two-stage rulemaking may be required in a given instance by statute. Additionally, for many of these surveyed past rules, the Department very likely would have chosen (even operating under the revised standard proposed today) to publish for prior public comment, in recognition that public comment, although time-consuming, can improve the quality of program administration.

But the Department's survey of past rulemakings illustrates that many of these rules could have been on-line, up-and-running policy pronouncements more than nine months, on average, earlier than they actually were.[3] This time savings could have been achieved had the Department been able to make a choice, case-by-case, concerning the form of rulemaking required to implement these initiatives. Judicial interpretation of the "impracticable, unnecessary or contrary to the public interest" standard set out in the Administrative Procedure Act generally has been so narrow that frequently, the Department's lawyers felt compelled, in light of the case law, to advise in favor of proceeding by means of a proposed rule—even though public comment in many situations seemed "unnecessary" in the more ordinary sense of that term. This record shows a serious problem of lost opportunity that not only has affected HUD's efficiency and performance, but also the capability of persons affected by HUD's programs to exercise rights and privileges provided to them by statutory program changes.

The Department finds that another basic flaw with HUD's rulemaking policy is that part 10 too frequently promotes the issuance of regulations to the exclusion of other management and policy considerations. One of these considerations is HUD's responsibility not to undertake a regulatory action unless the benefits of the regulation outweigh its potential costs. A balance must be reached between the need for timely implementation and flexibility on the one hand, and HUD's continuing interest in public participation and comment on agency guidance and instruction.

The Advisory Commission on Regulatory Barriers to Affordable Housing has recognized that agency regulations are a significant aggravating circumstance contributing to the unavailability of affordable housing:

Too often, Federal agencies promulgate regulations without due consideration of costs, especially when the goal is to protect health and safety. Inadequate attention is paid to exploring less burdensome alternatives. If at all possible, Federal agencies should seek marketplace solutions rather than highly regulatory approaches. When considering regulation, cost-effectiveness should be the yardstick for evaluating the acceptability of regulatory solutions * * *.

To set its own house in order, the Federal Government should first review existing rules and regulations that adversely affect housing affordability, and initiate procedures to minimize these effects in future regulations. Agencies promulgating major rules should have to account for the impacts of those rules on housing affordability.[4]

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[1] This is not to suggest that public comment has not often served to improve and perfect policy as expressed in proposed rules. However, the fact that HUD's proposed rules are fully developed policy documents makes possible the inference that the time loss (between publication of the proposed and final rules in the same proceeding) is a valid means of measuring the administrative cost (in time) of a policy calling for near-universal use of prior notice and comment rulemaking. The fully-developed proposed rule represents the document that could have served as HUD's articulation of policy for immediate effect.

[2] Of the 147 surveyed rules, 22 required five or fewer months to convert from published proposed rules to published final rules. An additional 82 rulemaking proceedings required a proposed/final rule publication gap of between 6 to 12 months, and 43 proceedings (including the above-noted nine extreme cases) involved final rules published more than a year following publication of the proposed rule.

[3] One-stage rulemaking for some of these rules also would have freed-up HUD staff resources, making possible the more rapid promulgation for effect of those rules that were appropriately developed in two stages.

[4] "Not in My Back Yard" Removing Barriers to Affordable Housing. (Report to President Bush and

Continued

The Commission went on to state that HUD's own regulations and procedures regarding design, construction or rehabilitation of housing should be subject to rigorous review and analysis, and that the Department should "remove all unnecessary, excessive, or duplicative standards that are not demonstrably required to protect health and safety."

III. This Proposal

This rule represents the Department's determination, after much deliberation, that HUD must free itself from the mechanistic approach to rulemaking that the present 24 CFR part 10 requires. The Congress, in adopting section 553 of the Administrative Procedure Act, decided to exempt matters relating "* * * to public property, loans, grants, benefits, or contracts" from the requirements of prior notice and public comment. The Congress recognized from the outset the extreme burden on agency administration that notice and comment rulemaking in these subject areas could entail. Thus, the core statute on the subject matter of agency rulemaking expressly excepts out most HUD rules from legally mandated prior notice and comment requirements. Given the conditions under which grant-administering agencies like the Department of Housing and Urban Development must carry out their responsibilities, as discussed elsewhere in this preamble, it appears that there is ample justification for the section 553 exception. Prior notice and comment rulemaking does not contribute to the Department's need to move appropriated funds to where they will accomplish their purpose, nor does it make possible the ability quickly to change policies, or to act to remove barriers to the achievement of desirable goals, or to adjust the means under which HUD allocates funds, conducts competitions for those funds, or oversees their expenditure. Additionally, where statutory directions exist that clearly set out program specifications or operating instructions to govern HUD-administered authorities, the Department believes that only a minimal regulatory structure should be in place to govern these authorities. There is no necessity that regulations always be employed to repeat back the requirements of statutes, or to recite intricate details of program administration. Details—especially those that are subject to recurring statutory change—should instead be set out in supplementary guidance that is readily available to affected members of the public, and readily amendable to reflect changes in the law.

Under this proposed rule, and over time, HUD would adjust the scope of its existing regulations so that, where legally permissible, some amount of procedural detail would be removed from existing regulations (and not included in future regulations) governing the Department's programs. The Department believes its rules should be written with an eye toward avoiding, where feasible, the need for recurring regulatory adjustments to reflect statutory changes. Instead, HUD's rules should reference the statutory source of authority and allow it, where possible, to speak for itself. Wherever it is both fair and legally permissible to do so, HUD should rely on supplemental guidance—handbooks, circulars and directives issued to affected members of the public by direct means—to augment the guidance included in codified regulations, to interpret statutory or existing regulatory directions, or to provide direct instructions to ratify specific statutory pronouncements. HUD wants to reduce the number of policies and procedures that must appear in regulations, as well as the level of detail included when regulations are necessary. There will, of course, continue to be a need to rely on **Federal Register** publication of HUD's substantive rules of general applicability, and the Department will continue to adhere to the policies in Executive Order 12291, i.e., all documents within the definition of "regulation" in the executive order will continue to be subject to review by the Director of the Office of Management and Budget.

However, where the Department's goal is merely to provide information, procedural guidance, or interpretations of existing laws and regulations, an array of means will be employed to meet these aims. Publication in new or amended regulations will be the chosen method where regulations are required by law, or by the provisions of this rule, or where this method is otherwise judged by the Secretary to be the most appropriate means of conveying information to the affected public.

In an instance where a self-executing statutory amendment has been adopted, however, the Department will, whenever feasible, publish notice to all affected persons of the statutory change by means of a directive. Where necessary because of existing regulations that are inconsistent with the self-executing new statute, housekeeping amendments to the regulations will follow. But guidance to the affected public concerning the change in the law will be provided, with much greater speed, by means of a directive. Directives may also be employed to explain and interpret existing regulations, in circumstances where the content of the directive is consistent with the regulation. If, however, policy declarations by the Department constitute new substantive rules of general applicability, they will be published subsequently as rules in the **Federal Register**.

IV. Description of the Rule

In this proposal the Department delineates the circumstances under which:

1. Alternative means for obtaining public comment will be established by the Department, including the use of an open docket by which public comments may be received on agency regulations and directives not otherwise subject to a notice and comment process.

2. Guidance concerning HUD programs may be disseminated other than by codified rules published in the **Federal Register**;

3. Rules may be published in the **Federal Register** for effect without the prior notice and comment currently required under part 10; and

4. Programs may be implemented, and funds made available for allocation or competition, by publication in the **Federal Register** of notices in advance of or in the absence of permanent regulations, in the interest of providing HUD-administered services and benefits at a much more rapid pace.

This proposed rule would accomplish these purposes by—

(1) freeing up the process of **Federal Register** rulemaking and limiting the occasions when public comment must be a prerequisite to making regulations effective;

(2) providing for the issuance of substantial amounts of information and guidance by means other than publication in the **Federal Register**; and

(3) clarifying that, where otherwise permitted by law, funding notices may be published in the **Federal Register** to make available assistance that is authorized and appropriated, whether or not underlying rules have been published to govern the funded program.

As the changes in policy represented by this rule are implemented, the Department intends to conduct a systematic review of its directives system (the array of non-**Federal Register** policy documents issued by the Department) to define further how that system will operate, and to provide

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Secretary Kemp by the Advisory Commission on Regulatory Barriers to Affordable Housing, pp. 6–1 and 6–2. Washington, DC 1991.

additional elaboration concerning the circumstances under which directives (as opposed to **Federal Register** documents) will be employed. The Department is also studying additional and alternative means of providing for (1) improved public access to the body of its regulations and directives system; and (2) improved means for public participation in policy making. Electronic "bulletin boards," accessible by computer to HUD program participants, are one promising means of providing these improvements that the Department currently is exploring. When fully developed, the Department would hope to employ this means of making instantly accessible, to any authorized program user, the full, up-to-date array of guidance materials issued by the Department and affecting program participants and other members of the public.

To the extent that the Department relies in the future on directives in lieu of codified rules, the directives employed would be freely available to the public, and in every instance would be furnished, by the Department, to affected program users by the most prompt and direct means available.

The Department also is implementing plans, in connection with the issuance of any regulation or directive, to provide for a more systematic evaluation of the costs and benefits associated with the issuance of its regulations and directives. The cost/benefit analysis associated with the production of new policy documents will be in writing in every instance—a Regulatory Impact Analysis will continue to be employed for all major rules, and a less formal written evaluation of cost/benefit data will be made for non-major documents. Unless expressly required by statute, a regulation or directive will not be issued if the program Assistant Secretary responsible for the initiative determines that its costs would exceed its public benefit.

This proposed rule also would add to part 10 a feature currently not included—a general waiver provision applicable to all HUD regulations contained in title 24 of the Code of Federal Regulations. On occasion in the past, waiver of existing regulations has been requested under circumstances wherein there did not exist, in the relevant HUD regulation, an explicit provision authorizing the waiver of portions of the regulation not required by statute. For this reason § 10.20 of the proposed rule has been added to make clear that any provision of HUD's regulations is (potentially) an appropriate subject for the grant of a waiver. As in any regulatory waiver provision, § 10.20 would require that the grant of a waiver be permitted only for good cause, and that the regulation being waived is not a matter that is required by statute. Proposed § 10.20 also cites the limitations on delegation of authority to grant regulatory waivers that arise out of section 106 of the Department of Housing and Urban Development Reform Act of 1989 (Reform Act) (42 U.S.C. 3535(q)), as elaborated in HUD's Statement of Policy of Waiver of Regulations and Directives Issued by HUD, 56 FR 16337, April 22, 1991. Section 10.20 also would provide specially (in accordance with HUD's Statement of Policy) that any proposed waiver of a regulation that prohibits discrimination on the basis of race, color, religion, national origin, sex, handicap, age, or familial status, or that sets forth related affirmative obligations, must be concurred in by the Assistant Secretary for Fair Housing and Equal Opportunity, or by his or her designee.

Section 10.20 is not intended to preempt other waiver provisions currently set out in particular provisions of title 24 of the Code of Federal Regulations. If a provision in another part of HUD's regulations set out a standard or requirement for the granting of a waiver that is in addition to, or different than, the "good cause" standard in § 10.20, the waiver provision in that other part would be applied. The sole purpose of § 10.20 is to make clear that a right exists to waive any HUD rule, when the waiver request and its consideration are consonant with the requirements of section 106 of the Reform Act.

Finally, the proposed rule redefines, and limits, the circumstances under which prior notice and comment rulemaking procedures will be retained as a requirement. The Department recognizes that there is merit in preserving this important process in those instances where the need for public participation clearly outweighs the competing needs that have led to this proposed reform of the rulemaking process at HUD. The rule proposes to bind the Department to prior notice and comment rulemaking only in those instances where it is statutorily required. However, the Secretary (and, by delegation, the several HUD Assistance Secretaries promulgating regulations) will have discretion to employ prior notice and comment rulemaking in other circumstances.

V. Other Matters

National Environmental Policy Act (NEPA)

This rule is categorically excluded from the NEPA requirements of HUD regulations at 24 CFR part 50, with implement section 102(2)(C) of the National Environmental Policy Act of 1969. The rule involves internal administrative procedures whose content does not constitute a developmental decision nor affect the physical condition of project areas or building sites. It relates, instead, only to the performance of functions analogous to the management activities excluded from environmental review under 24 CFR 50.20(k). To the extent that an environmental finding is required by NEPA or by HUD's regulations, the same finding would, under this rule, continue to be required for any policy document developed in accordance with these revised procedures.

Executive Order 12291

This rule would 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 on 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. This rule affects only the procedural means HUD intends to use to effect changes in its policies and practices—not the policies and practices themselves.

Regulatory Flexibility Act

The Secretary, in approving this rule for publication, certifies in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act) that this rule would not have a significant economic impact on a substantial number of small entities. This is a procedural rule, intended to increase the speed and efficiency with which HUD implements its statutory and other authorities. To the extent the rule succeeds in this undertaking, the effects on small entities may be expected to be positive.

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 would not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. While the rule would affect the frequency with which comment from state or local governments on HUD policy making would be available before policy implementation, the Department believes that there exists ample access, by state and local government, to HUD's policy making machinery, and that the ability of governments to make their views known to the Department in a timely and effective manner will not be limited significantly by the procedural change proposed in this rule.

Executive Order 12606, The Family

The General Counsel, as the Designated Officer under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves procedural requirements only and should have no direct effect on family-related issues or concerns.

Semiannual Agenda

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

There is no Catalog of Federal Domestic Assistance program listing for this rule.

List of Subjects in 24 CFR Part 10

Administrative practice and procedure.

Accordingly, 24 CFR part 10 is proposed to be revised as follows:

PART 10—RULEMAKING: POLICY AND PROCEDURES

Subpart A—Policy

Sec.
10.1 Policy.
10.5 Definitions.
10.10 Applicability.

Subpart B—Procedures

10.15 Rules docket.
10.20 Waiver of regulation.
10.30 Initiation of rulemaking; issuance of directives.
10.35 Advance notice of proposed rulemaking.
10.40 Notice of proposed rulemaking.
10.45 Interim rule.
10.50 Final rule.
10.55 Notices of funding availability (No FAS)
10.60 Interpretive rule; statement of policy.
10.65 Directives.
10.70 Open docket.
10.75 Petition for rulemaking.

Authority: 5 U.S.C. 552, 553; 42 U.S.C. 3535(d).

Subpart A—Policy

§ 10.1 Policy.

(a) *General.* It is the policy of the Department of Housing and Urban Development (HUD) to provide clear and timely guidance and operating instructions to persons affected by or benefitted under the programs or activities administered by the Department. In providing guidance and instructions, HUD intends to afford recipients of HUD assistance maximum flexibility in the management and administration of federal assistance programs. The form of guidance and instruction issued by the Department in a particular instance will be determined in a manner consistent with this part that will ensure timely implementation and that will permit, to the extent feasible, public participation before and after the issuance of the guidance and instruction.

(b) *Use of directives.* Consistent with this part and to the extent practicable and legally permissible, HUD will limit the occasions for **Federal Register** publication of program guidance and other information associated with the functioning of HUD programs. Frequently, the Department will disseminate program guidance in the form of directives.

(c) *Publication in the* **Federal Register.** The Department will employ **Federal Register** publication in any instance where the subject matter of a document involves a substantive rule of general applicability adopted as authorized by law.

(d) *Notice and comment rulemaking.* Prior notice and comment rulemaking will be used whenever—

(1) It is explicitly required by a statute; or

(2) Whenever the subject matter of a rulemaking is not exempt from the requirements of notice and comment under 5 U.S.C. 553(a)(2), unless the Department makes a finding of good cause (set out in the rulemaking document) that notice and public procedure or impracticable, unnecessary or contrary to the public interest.

§ 10.5 Definitions.

Department or *HUD* means the Department of Housing and Urban Development.

Directive means a written guidance document that pertains to the operation of a HUD program, directed to HUD program managers or to other particular persons or entities (grantees, recipients, public housing agencies, etc.) who are participating in or who are or may be affected by a HUD program. Directives are disseminated by means other than publication in the **Federal Register.** The term includes Handbooks, Notices, Interim Notices, Mortgagee Letters, Title I Letters, Transmittals, or any written amendment or supplement to such an item.

Federal Register document means any rule, regulation, policy statement, interpretive rule, notice, NOFA, or other document that is published in the **Federal Register.**

Interpretive rule means a published HUD statement setting out the Department's interpretation of a statute or an existing regulation.

Notice of Funding Availability or *NOFA* means a statement, published in the **Federal Register,** setting out or citing requirements associated with the process of applying to HUD for assistance that is to be awarded on a competitive basis. A NOFA is designed to announce the availability of funding for one or more purposes, and the specifications concerning application for that funding.

Rule or *regulation* means an agency statement of general applicability and future effect, published in the **Federal Register,** designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. The term does not include rules related to agency organization, management, or personnel.

Rulemaking means the process of considering, formulating and publishing rules and regulations in the **Federal Register.**

Rule of agency procedure or practice means an internal agency instruction, requirement, or procedure. A rule of agency procedure or practice may set out requirements applicable to agents and employees of HUD, or may explain or augment procedural directions to be followed by persons governed by HUD rules or regulations. Rules of agency procedure or practice are not intended to impose binding requirements on persons other than agents and employees of HUD.

Secretary means the Secretary of Housing and Urban Development, the Deputy Secretary of Housing and Urban Development, or (when used in this part to refer to rulemaking policies and procedures), a particular official of the Department to whom the Secretary of Housing and Urban Development has expressly delegated authority to issue rules.

Self-executing, referring to a statute, means a statute that (1) pertains to a HUD function or area of responsibility; (2) requires action on the part of HUD or on the part of participants in a HUD program; and (3) does not require or permit the Secretary, in order to implement the statute, to make discretionary choices or to chose among policy alternatives.

Statement of policy or *policy statement* means a HUD document that explains the Department's policy or practice relative to a specific program, area of activity, or other subject matter.

§ 10.10 Applicability.

(a) This part prescribes general procedures for the issuance, amendment, or removal (repeal) of rules or regulations of the Department of Housing and Urban Development. This part also provides for the issuance of directives concerning the operation of HUD programs by means other than publication in the **Federal Register**.

(b) The authority to issue regulations, when delegated by the Secretary of Housing and Urban Development, may not be redelegated, unless authority to redelegate is included expressly in the Secretary's delegation.

(c) Non-substantive **Federal Register** notices (e.g., effective date announcements, correction documents, extensions of time for responding to solicitations for comments or invitations for applications, notices of meetings, and other similar documents) may be issued by the Associate General Counsel for Legislation and Regulations or by the Assistant General Counsel for Regulations, or by other persons who may be authorized, by means of an express delegation of authority, to issue particular forms of routine documents.

Subpart B—Procedures

§ 10.15 Rules docket.

(a) All **Federal Register** documents and records of published documents are maintained in the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Examples of documents and records maintained include advance notices of proposed rulemaking; notices of proposed rulemaking; written comments received in response to notices; withdrawals or terminations of proposed rulemaking; petitions for rulemaking and responses to petitions for rulemaking; requests for extension of time; grants or denials of petitions or requests; and records of published documents.

(b) All public comments on **Federal Register** documents should refer to the docket number appearing in the heading of the rule, and should be addressed to the Rules Docket Clerk.

(c) Comments forwarded to the Rules Docket Clerk cannot be acknowledged individually, because of the great number of comments received in response to HUD publications. When a **Federal Register** document is published taking into account the comments received on a previous publication, the substance of the comments received will be discussed in the preamble of the document.

(d) **Federal Register** documents are public records. After a docket is established, any person may examine docketed materials, including public comments, at any time during regular business hours, and may obtain a copy of any docketed material. There is no charge for a single copy of docketed material, where the requesting individual personally copies the material in the office of the Rules Docket Clerk. Persons who request documents requiring search, copying or mailing will be subject to copy fees in accordance with part 15 of this title.

§ 10.20 Waiver of regulations.

(a) Any provision of a regulation in title 24 of the Code of Federal Regulations (except chapter XXV) that is not required by statute, upon an individual, on-the-record request for waiver action and following a determination of good cause, may be waived by the Secretary.

(b) This section does not preempt other waiver provisions set out in title 24. Any waiver provision contained in any part within title 24 that provides for a standard different than, or in addition to, the standard set out in paragraph (a) of this section must be applied by its terms.

(c) In accordance with the HUD Statement of Policy on Waiver of Regulations and Directives (56 FR 16337, April 27, 1991)—

(1) Any grant of a waiver of a regulation of the Department must be in writing and must specify the grounds for approving the waiver.

(2) The Secretary may delegate authority to approve a waiver of a regulation only to an individual of Assistant Secretary rank or of equivalent rank, and then only to an individual authorized to issue the particular regulation being waived. Notwithstanding that the Secretary has, in a particular instance, delegated the authority to approve a waiver of a regulation, any proposed waiver of a regulation that prohibits discrimination on the basis of race, color, religion, national origin, sex, handicap, age, or familial status, or that sets forth related affirmative obligations, must be concurred in by the Assistant Secretary for Fair Housing and Equal Opportunity, or his or her designee.

§ 10.30 Initiation of rulemaking; issuance of directives.

A rulemaking proceeding, or the issuance of an interpretive rule, a statement of policy, or a directive, may be initiated by the Secretary, or on the recommendation of a federal, state, or local government or government agency, or on the petition of any interested person in accordance with the procedures set out in § 10.75.

§ 10.35 Advance notice of proposed rulemaking.

An advance notice of proposed rulemaking is a **Federal Register** notice which outlines, for public comment, a proposed new program or program change contemplated by the Department, explains why the program or change is considered necessary or appropriate, and solicits comments from the public. The purpose of an advance notice of proposed rulemaking is to secure the advice of commenters on policy initiatives before their adoption as rules. In accordance with the provisions of this part, the Department may, following solicitation of public comment in an advance notice, promulgate rules for effect with or without further public participation, depending upon the nature of the rule being promulgated.

§ 10.40 Notice of proposed rulemaking.

(a) A notice of proposed rulemaking (proposed rule) will be used to promulgate new policy or to implement new statutory directions in the circumstances described in § 10.1(d) of this part. The Secretary also may publish a proposed rule if, in the Secretary's judgment, prior notice and comment is essential to the formulation of the rule, or if time is not of the essence and the Secretary believes that prior notice and comment would enhance the quality of a particular rulemaking proceeding. Each proposed rule:

(1) Will be published in the Federal Register;

(2) Will include either the substance of a proposal or a description of the subject matter and the issues involved; and

(3) Will include a statement of the time within which written comments must be submitted. Where a particular rulemaking proceeding calls for another form of public participation in addition to the submission of written comments, the rule will so specify.

(b) Each proposed rule will reference the legal authority under which it is issued. In the case of a proposed rule published following an advance notice of proposed rulemaking, the proposed rule will include an analysis of the principal issues and recommendations raised by the comments on the advance notice, and the manner in which they have been addressed in the proposed rulemaking.

(c) The invitation to the public to comment on a proposed rule will set out a period of time adequate to permit interested persons to submit their views in writing. Comments received after the deadline will be considered in formulating a final rule unless, on the date a late comment is received, substantive examination of all the public comments by appropriate representatives of the Department already has begun, and it would be impracticable to consider the late comment.

§ 10.45 Interim rule.

(a) An interim rule is a rule published for effect, but which provides for public participation and subsequent adoption of a final rule after consideration of public comments received in response to the interim rule. Interim rules may be used in any instance where prior notice and comment is not expressly required under § 10.1(d) of this part and the Secretary determines that the need for rapid implementation of the policies and procedures contained in a particular rule outweighs the value of receiving public comment before a rule's effectiveness.

(b) Each interim rule will reference the legal authority under which it is issued. In the case of an interim rule published following an advance notice of proposed rulemaking or a notice of proposed rulemaking, the interim rule will include an analysis of the principal issues and recommendations raised by the comments on the advance notice, or on the proposed rule, and the manner in which the comments have been addressed in the interim rulemaking.

(c) The invitation to the public to comment on an interim rule will set out a period of time adequate to permit interested persons to submit their views in writing. Comments received after the deadline will be considered in formulating a final rule unless, on the date a late comment is received, substantive examination of all the public comments by appropriate representatives of the Department already has begun, and it would be impracticable to consider the late comment.

§ 10.50 Final rule.

(a) A final rule is a rule, published for effect, which:

(1) Follows the publication of an advance notice of proposed rulemaking, a proposed rule, or an interim rule on the same subject matter and makes effective, usually in a revised form, the earlier-published document, after consideration of public comments; or

(2) Is published as the initial phase of a rulemaking, without the solicitation of public comment.

(b) A final rule may be published, without the solicitation of public comment whenever prior notice and comment is not expressly required under § 10.1(d) of this part, and the Secretary determines that:

(1) The interest in rapid implementation of a program or policy outweighs the advantages to be gained by waiting for public participation, and promulgation of a final rule would be consistent with the public interest; or

(2) The final rule consists of an amendment to an existing codified rule, and—

(i) The amending rule conforms an existing rule to a change in statutory law, in circumstances where the statutory direction is unambiguous and requires no significant exercise of discretionary judgment by the Secretary; or

(ii) The amending rule effects regulatory changes which would not, in the judgment of the Secretary, impose significant new burdens or duties on the persons affected by the regulation being amended, or which, on balance, would provide positive benefits to those persons that outweigh any new regulatory burden contained in the amendment; or

(iii) The amending rule makes incidental procedural or conforming changes to existing regulations under circumstances where public comment is unnecessary.

§ 10.55 Notices of funding availability (NOFAs).

(a) A notice of funding availability (NOFA) is a document that announces the availability of funds for a particular public purpose authorized by statute. NOFAs frequently include references to particular codified rules that pertain to their subject matter. However, the Secretary, in any instance where prior notice and comment is not expressly required under § 10.1(d) of this part, may publish an announcement of funding for any lawful purpose authorized under a statute administered by the Department.

(b) The requirements, terms and conditions under which the funds announced in a NOFA are to be made available by HUD and expended by the recipient may be set out in a NOFA, whether or not a previous Federal Register document has been published pertaining to the same subject matter. However, terms and conditions contained in a NOFA may not contradict those set forth in another Federal Register document on the same subject.

(c) All NOFAs providing for the competitive award of HUD assistance will be published in the Federal Register and will announce the availability of assistance in accordance with the requirements of 42 U.S.C. 3545 (section 102 of the Department of Housing and Urban Development Reform Act of 1989).

§ 10.60 Interpretive rule; statement of policy.

An interpretive rule or a statement of policy is not subject to any requirement of prior public comment. Interpretive rules and policy statements are published at the Secretary's discretion. No duty exists to publish a departmental opinion or interpretation on any particular subject matter.

§ 10.65 Directives.

(a) The Secretary may issue directives containing operational guidance and other forms of instruction or advice concerning HUD programs.

(b) A directive may contain substantial elaboration of, but may not set out requirements inconsistent with, those requirements that have been set out in regulations or other policy documents of the Department and published in the Federal Register or in the Code of Federal Regulations.

(c) A directive intended by the Secretary to be treated as an interpretive rule may be issued only if the Secretary has assured that all persons affected by the directive are able to be afforded actual notice of its content. Where HUD publishes a directive intended to be an interpretive rule, its content will be limited either to:

(1) Explaining and providing additional guidance concerning subject

matter that is already treated in an existing **Federal Register** document; or

(2) Explaining and providing guidance concerning a statutory provision that the Secretary has determined is self-executing.

§ 10.70 Open docket.

(a) Any interested person may comment on any document published by the Department, including, in addition to a proceeding involving a document that expressly requests public comment, a proceeding initially published:

(1) As a final rule without invitation for public comment;

(2) As a notice of funding availability;

(3) As an interpretive rule or statement of policy; or

(4) As a directive.

(b) Comments on **Federal Register** documents should refer to the docket number appearing in the heading of the published document, and should be addressed to the Rules Docket Clerk. Comments will be referred to appropriate HUD program administrators for consideration. Comments on directives should refer to the full name of the document set out in the document's caption, and to any identifying number or date appearing on the document, and should be forwarded to the officer who issued the directive.

(c) In appropriate cases, the Secretary may provide for oral presentation of views in additional proceedings. The Secretary may invite interested persons to present oral arguments, appear at informal hearings, submit documents, or participate in any other procedures affording opportunity for a presentation of views. A transcript, summary, or the minutes of any meeting of this kind, and any written materials presented by participants, will be kept and filed in the Rules Docket as public documents available for inspection and copying.

§ 10.75 Petition for rulemaking.

(a) Any interested person may petition the Secretary for the issuance, amendment, or removal (repeal) of a regulation or a directive. Each petition shall:

(1) Be submitted to the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, Washington, DC 20410.

(2) Set forth the text or substance of the rule, directive or amendment proposed, or specify the regulation or directive sought to be removed.

(3) Explain the interest of the petitioner in the action sought; and

(4) Set forth all data and arguments available to the petitioner in support of the action sought.

(b) No public procedures will be held directly on the petition before its disposition. However, each petition for rulemaking will be acknowledged in writing by the Rules Docket Clerk, who will inform the petitioner concerning the name of the HUD officer or officers to whom the petition has been referred for consideration. If the Secretary finds that the petition contains adequate justification, a rulemaking proceeding or other appropriate proceeding will be undertaken in accordance with this part. If the Secretary finds that the petition does not contain adequate justification, the petition will be denied by letter or other notice, with a brief statement of the ground for denial. The Secretary may consider new evidence at any time, but repetitious petitions will not be considered.

Dated: August 10, 1992.

Jack Kemp,

Secretary.

[FR Doc. 92-24895 Filed 10-13-92; 8:45 am]

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federal register

Wednesday
October 14, 1992

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Terminal Airspace Reconfiguration; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 26852; Amendment No. 71-17]

RIN 2120-AE18

Terminal Airspace Reconfiguration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date

SUMMARY: The Terminal Airspace Reconfiguration Final Rule (FR 38962; August 27, 1992) amended the Federal Aviation Regulations (FAR) in pertinent part by revising all control zones and transition areas effective October 15, 1992. This action amends the effective date of certain control zone modifications in Alaska from October 15, 1992 to September 16, 1993.

EFFECTIVE DATE: This amendment is effective as of October 14, 1992 through September 15, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. William Mosley, Air Traffic Rules Branch (ATP-230), Airspace Rules and Aeronautical Information Division, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9251.

SUPPLEMENTARY INFORMATION:

Background

The Terminal Airspace Reconfiguration Final Rule (FR 38962; August 27, 1992) amends the Federal Aviation Regulations (FAR) in pertinent part by revising all control zones and transition areas effective October 15, 1992. Specifically, the revisions will modify the lateral and vertical dimensions of the control zones. The FAA intended to decrease the vertical limits so as to prepare for the transition to Class D airspace and the accompanying communications requirement becoming effective September 16, 1993. The modification of the vertical limits of control zones at towered airports not associated with a terminal control area (TCA) or airport radar service area (ARSA), however, will significantly reduce the amount of airspace within which clearance for special visual flight rules (SVFR) operations can be issued. This unforeseen result could cause a negative impact on the efficient use of airspace at such airports. To illustrate, when the meteorological conditions preclude VFR flight, operations in the airspace above the revised vertical limits would have to be conducted under instrument flight rules. It was not the intent of the FAA in promulgating the Airspace Reclassification Rule (FR 65638; December 17, 1991) or the Terminal Airspace Reconfiguration Rule (FR 38962; August 27, 1992) to cause this impact. The FAA is initiating rulemaking action via a notice of proposed rulemaking (NPRM) to relieve this inadvertent impact under the Airspace Reclassification Rule effective September 16, 1993. However, in the interim, the FAA will delay the effective date of the new vertical limits in Alaska to mitigate any loss of efficiency during the rulemaking process.

The Rule

The effective date of October 15, 1992, as it pertains to the vertical limits of the control zones, is changed to September 16, 1993 for the following airports in Alaska: Anchorage International; Bethel; Bryant AHP; Eielson AFB; Elmendorf AFB; Fort Wainwright AAF; Fairbanks International; Galena; Juneau; Kenai; King Salmon; Kodiak; Lake Hood; Merrill Field; and Shemya. Control zones are published in § 71.171 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The control zones listed in this document will be published subsequently in the Handbook.

This action continues the current authority of air traffic control to issue clearances for SVFR operations in certain control zones in Alaska up to, but not including, 14,500 feet MSL and does not place any new restriction or requirements on the public or impede the relieving of any regulatory burdens that the Airspace Reclassification Rule or the Terminal Airspace Reconfiguration Rule will bring about. Further, this amendment does not make any changes in the dimensions or operating requirements of the airspace listings incorporated by reference in part 71 that were not previously proposed, but merely leaves in place the existing vertical limits. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Because this action merely delays the effective date of the vertical limits of 15 control zones in Alaska as contained in FAA Order 7400.7, the FAA finds that good cause exists, pursuant to 5 U.S.C. 553(d), for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Airspace, Control Zones, Incorporation by reference.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991 is amended as follows:

Section 71.171 Designation

* * * * *

AAL AK CZ Anchorage, Bryant AHP, AK
Anchorage, Bryant AHP, AK
(lat. 61°15'45" N, long. 149°39'17" W)
That airspace extending upward from the surface to and including 1,500 feet MSL within a line beginning at lat. 61°17'13"N, long. 149°37'35"W; thence west along lat. 61°17'13"N to the long. 149°43'08"W line; thence south along long. 149°43'08"W line to the Glenn Highway; thence north and east along the Glenn Highway to its intersection with a line one-half mile east of and parallel to Bryant AHP Runway 16/34 extended centerline; thence northeast along a line one-half mile east of and parallel to Bryant AHP Runway 16/34 extended centerline to the point of beginning.

AAL AK CZ Anchorage, Elmendorf AFB Airport, AK
Anchorage, Elmendorf AFB Airport, AK
(lat. 61°15'11"N, long. 149°47'38"W)
Elmendorf Localizer (lat. 61°15'14"N, long. 149°46'48"W)
That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Elmendorf AFB Airport and within 2 miles each side of the Elmendorf Localizer front course extending from the 4.7-mile radius to a point 5.5 miles from Elmendorf AFB Airport; excluding that airspace of long. 149°43'W, and that airspace within the Anchorage International Airport, AK, Airport Radar Service Area and the Anchorage Merrill Field, AK, Control Zone.

AAL AK CZ Anchorage International Airport, AK
Anchorage International Airport, AK
(lat. 61°10'28"N, long. 149°59'46"W)
Anchorage VOR/DME (lat. 61°09'03"N, long. 150°12'24"W)
Anchorage Runway 6R Localizer

(lat. 61°10'04"N, long. 149°58'02"W)

Anchorage LOM (lat. 61°10'03"N, long. 150°10'37"W)

Anchorage Air Traffic Control Tower

(lat. 61°10'36"N, long. 149°58'59"W)

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5.2-mile radius of Anchorage Air Traffic Control Tower and that airspace up to but not including 1,400 feet MSL within 2 miles each side of the 079° radial of the Anchorage VOR/DME extending from the 5.2-mile radius of Anchorage Air Traffic Control Tower to the Anchorage VOR/DME and within 2 miles each side of the Anchorage Runway 6R Localizer west course extending from the 5.2-mile radius of the control tower to the Anchorage LOM; excluding that airspace north of the 090° bearing from the control tower and east of the 350° bearing from the control tower and east of a line bearing 180° and 360° from the INT of the New Seward Highway and International Airport Road and excluding that airspace below 600 feet MSL south of lat. 61°08'28"N., within a 5.2-mile radius of the control tower.

AAL AK CZ Anchorage Lake Hood, AK

Anchorage Lake Hood, AK

(lat. 61°10'48"N, long. 149°58'19"W)

Anchorage Air Traffic Control Tower

(lat. 61°10'36"N, long. 149°58'59"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at the Anchorage Air Traffic Control Tower, thence east along the 090° bearing from the Anchorage Air Traffic Control Tower to the New Seward Highway, thence north along the New Seward Highway to Tudor Road, thence direct to the intersection of Northern Lights Boulevard and Fish Creek, thence north along Fish Creek to the mouth of Fish Creek, thence direct to Point McKenzie, thence west along the north shore of Knik Arm to the 350° bearing from the Anchorage Air Traffic Control Tower, thence southeast along that bearing to the point of beginning; excluding that airspace within the Elmendorf AFB Airport, AK, Control Zone.

AAL AK CZ Anchorage Merrill Field, AK

Anchorage Merrill Field, AK

(lat. 61°12'52"N, long. 149°50'46"W)

Elmendorf Localizer (lat. 61°15'14"N, long. 149°46'48"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at the mouth of Fish Creek, thence along Fish Creek to Northern Lights Boulevard, thence direct to the intersection of Tudor Road and the New Seward Highway, thence east along Tudor Road to its intersection with Muldoon Road, thence north along Muldoon Road to the Glenn Highway, thence direct to the mouth of Ship Creek, thence southwest along the southeast shore of Knik Arm to a line 2 miles south of and parallel to the Elmendorf Localizer southwest course, thence west along that line to a line direct from Point McKenzie to the mouth of Fish Creek; thence southeast along that line to the point of beginning.

* * * * *

AAL AK CZ Bethel, AK

Bethel Airport, AK

(lat. 60°46'47"N, long. 161°50'17"W)

Bethel VORTAC (lat. 60°47'05"N, long. 161°49'27"W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.1-mile radius of the Bethel Airport; and that airspace extending upward from the surface within 3 miles each side of the 022° radial from the Bethel VORTAC, extending from the 4.1-mile radius of the Bethel Airport to 8.2 miles northeast of the airport within 3.4 miles each side of the Bethel VORTAC 006° radial, extending from the 4.1-mile radius of the Bethel Airport to 11 miles north of the Bethel VORTAC and within 3.5 miles each side of the Bethel VORTAC 213° radial extending from the 4.1-mile radius of the Bethel Airport to 10 miles southwest of the airport.

* * * * *

AAL AK CZ Fairbanks, Eielson AFB, AK

Fairbanks, Eielson AFB, AK

(lat. 64°39'52"N, long. 147°05'59"W)

Eielson TACAN (lat. 64°41'16"N, long. 147°06'49"W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 5.2-mile radius of Eielson AFB; and that airspace extending upward from the surface within 2.8 miles each side of the Eielson TACAN 323° radial extending from the 5.2-mile radius of Eielson AFB to 11.8 miles northwest of the AFB; excluding that airspace north of a line from lat. 64°48'52"N, long. 147°12'04"W; to lat. 64°47'27"N, long. 147°25'56"W.

AAL AK CZ Fairbanks, Fort Wainwright AAF, AK

Fairbanks, Fort Wainwright AAF, AK

(lat. 64°50'11"N, long. 147°37'01"W)

Fairbanks VORTAC (lat. 64°48'00"N, long. 148°00'43"W) Chena NDB (lat. 64°50'17"N, long. 147°29'24"W)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 5.3-mile radius of Fort Wainwright AAF Airport; and that airspace extending upward from the surface within 2.4 miles each side of the Chena NDB 089° bearing extending from the 5.3-mile radius of the Fort Wainwright AAF Airport to 10.1 miles east of the Fort Wainwright AAF Airport and within 1.8 miles north of the Fairbanks VORTAC 078° radial extending from the 5.3-mile radius of the Fort Wainwright AAF Airport to 9.9 miles east of the Fort Wainwright AAF Airport; excluding the portion of the arrival extension south of a line from lat. 64°48'52"N, long. 147°12'04"W; to lat. 64°47'27"N, long. 147°25'56"W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

AAL AK CZ Fairbanks International Airport, AK

Fairbanks International Airport, AK

(lat. 64°48'57"N, long. 147°51'29"W)

Fox NDB (lat. 64°58'08"N, long. 147°34'48"W)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 5.4-mile radius of the Fairbanks International Airport; excluding that airspace south and east of a line from lat. 64°45'14"N, long. 147°41'16"W; to lat. 64°51'10"N, long. 147°44'09"W; to lat. 64°54'48"N, long. 147°30'57"W; and that airspace extending upward from the surface within 3.3 miles each side of the 218° bearing and 038° bearing from the Fox NDB extending from the 5.4-mile radius of the Fairbanks International Airport to 13.5 miles north of the Fairbanks International Airport; excluding that airspace south and east of a line from lat. 64°45'14"N, long. 147°41'16"W; to lat. 64°51'10"N, long. 147°44'09"W; to lat. 64°54'48"N, long. 147°30'57"W.

AAL AK CZ Galena, AK

Galena Airport, AK

(lat. 64°44'10"N, long. 156°56'15"W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.1-mile radius of the Galena Airport.

* * * * *

AAL AK CZ Juneau, AK

Juneau International Airport, AK

(lat 58°21'18"N, long. 134°34'34"W)

Juneau Localizer (lat. 58°21'32"N, long. 134°38'15"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3-mile radius of the Juneau International Airport; and that airspace extending upward from the surface within 2.2 miles each side of the Juneau Localizer west course, extending from the 3-mile radius of the Juneau International Airport to 8.9 miles west of the Juneau International Airport.

AAL AK CZ Kenai, AK

Kenai, Kenai Municipal Airport, AK

(lat. 60°34'17"N, long. 151°14'52"W)

Kenai VOR/DME (lat. 60°36'53"N, long. 151°11'43"W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.2-mile radius of the Kenai Municipal Airport; excluding the airspace below 1,100 feet MSL beyond 4 miles from the Kenai Municipal Airport extending from the 312° bearing clockwise to the 348° bearing from the Kenai Municipal Airport; and that airspace extending upward from the surface within 3.6 miles each side of the Kenai VOR 030° radial extending from the 5.2-mile radius of the Kenai Municipal Airport to 12.1 miles northeast of the Kenai Municipal Airport and within 1.5 miles either side of the Kenai VOR 210° radial from the 5.2-mile radius of the Kenai Municipal Airport to 7.1 miles south of the Kenai Municipal Airport.

* * * * *

AAL AK CZ King Salmon, AK

King Salmon Airport, AK

(lat. 58°40'36"N, long. 156°38'58"W)

King Salmon VORTAC (lat. 58°43'29"N, long. 156°45'08"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.2-mile radius of the King Salmon Airport; and that airspace extending upward

from the surface within 2.5 miles each side of the King Salmon VORTAC 312° radial extending from the 5.2-mile radius of the King Salmon Airport to 12.5 miles northwest of the airport.

AAL AK CZ Kodiak, AK
Kodiak Airport, AK
(lat. 57°45'00"N, long. 152°29'38"W)
Woody Island NDB (lat. 57°46'28"N, long. 152°19'24"W)
Kodiak Localizer (lat. 57°45'08"N, long. 152°31'16"W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 3.1-mile radius of the Kodiak Airport, excluding that airspace west of a line 1.8 miles west of and parallel to the Kodiak Airport Runway 18–36; and that airspace extending upward from the surface within 1.5 miles north and 2.5 miles south of the Woody Island NDB 253° bearing extending from the 3.1-mile radius of the Kodiak Airport to the Woody Island NDB and within 2.5 miles either side of the Woody Island NDB 073° bearing extending from the Woody Island NDB to 12.5 miles east of the Kodiak Airport.

* * * * *

AAL AK CZ Shemya, AK
Shemya AFB Airport, AK
(lat. 52°42'44"N, long. 174°06'49"E)
Shemya VORTAC (lat. 52°43'06"N, long. 174°02'55"E)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.4 1-mile radius of the Shemya AFB Airport, within 1.6 miles each side of the 104° radial from the Shemya VORTAC extending from the 4.4-mile radius to 4.5 miles east of the airport and within 2.3 miles north and 1.3 miles south of the Shemya VORTAC 275° radial extending from the 4.4-mile radius to 5.2 miles west of the airport.

* * * * *

Issued in Washington DC, on October 7, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92–24903 Filed 10–13–92; 8:45 am]

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federal register

Wednesday
October 14, 1992

Part IV

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites; Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-4521-3]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

This rule adds 26 new sites to the General Superfund Section and 7 to the Federal Facilities Section of the NPL, and deletes 4 sites. The identification of a site for the NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This action and a proposed rule published elsewhere in this **Federal Register** result in an NPL of 1,208 sites, 1,085 of them in the General Superfund Section and 123 of them in the Federal Facilities Section. An additional 28 sites are proposed, 25 in the General Superfund Section and 3 in the Federal Facilities Section. Final and proposed sites now total 1,236.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be November 13, 1992. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the **Federal Register.**

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see "Information Available to the Public" in Section I of the **"SUPPLEMENTARY INFORMATION"** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Martha Otto, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS-5204G), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, or the Superfund Hotline, phone (800) 424-9346 or (703) 920-9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction
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I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial actions tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if its scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of 40 CFR Part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR Part 300, is the National Priorities List ("NPL"). CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is

placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 25, 1991 (56 FR 48438).

The NPL includes two sections, one of sites evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under it own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive that at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

This final rule adds 26 sites to the General Superfund Section, for a total of 1,085 sites, and 7 sites to the Federal Facilities Section, for a total of 123 Federal facility sites. Therefore, there are now 1,208 sites on the NPL. An additional 28 sites have been proposed, 25 in the General Superfund Section and 3 in the Federal Facilities Section, and are awaiting final Agency action. Final and proposed sites now total 1,236.

The NPL no longer includes four sites for which the listing was vacated by a court order or voluntary removal:

Kent County Landfill (Houston), Houston, DE
Anne Arundel County Landfill, Glen Burnie, MD
Salford Quarry, Salford Township, PA
Murray-Ohio Manufacturing Co. (Horseshoe Bend Dump), Lawrenceburg, TN

Deletions/Cleanups

EPA is developing the NPL completions list to better show the successful completion of Superfund response action at present or former NPL sites and enhance public understanding of the status of cleanup progress at sites. Sites are organized into three categories: Construction completion, site completion, and NPL deletion. A site will move over time from completion of physical construction (construction completion) to achievement of remedial action objectives specified in the Record of Decision or ROD (site completion) to deletion (being formally removed from the NPL). Thus, the NPL completions list provides a "snapshot" of site cleanup status that will need to be periodically updated to reflect newly categorized sites, and sites moving from one category to the next. More details on the completions list will be published shortly in the **Federal Register**.

EPA deletes sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 44 sites from the General Superfund Section of the NPL, including the following 4 sites: Big River Sand Co., Wichita, KS; Pagano Salvage, Los Lunas, NM; BEC Trucking, Town of Vestal, NY; Westline site, Westline, PA. EPA, in consultation with the States of Kansas, New Mexico, New York, and the Commonwealth of Pennsylvania, has determined that no further response is appropriate at these sites. EPA and the respective States have also concluded that remedial actions conducted at the sites to date remain protective of the public health, welfare, and the environment. All four States have concurred on the deletion of the sites from the NPL.

In making a determination to delete a release from the NPL, EPA considers in consultation with the State whether any of the following criteria has been met: (1) Responsible parties or other persons have implemented all appropriate response actions requires; (2) all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or (3) the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate. See section 300.425(e)(1) of the NCP. Prior to deletion, notice of the proposed deletion is published and an opportunity for comment has been provided for all these sites. Any sites deleted from the NPL remain eligible for Fund-financed remedial action in the event that conditions are later found to warrant such action. Section 300.425(e)(3) of the NCP provides that whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the HRS. Deletion does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts. Specific information about the sites follows.

Big River Sand Co., Wichita, Kansas

EPA published a Notice of Intent to Delete the site on July 9, 1992 (57 FR 30452). EPA also published a notification in the principal local newspaper on July 5, 1992. The closing date for comments was August 10, 1992. EPA received no comments on the merits of the deletion of the site from the NPL, and one procedural comment. After reviewing these comments, EPA has concluded that deletion of the site at this time is appropriate. EPA provided a detailed response to the comment in a responsiveness summary which is contained in the Deletion Docket. Entries in the Deletion Docket may be reviewed at the U.S. EPA Region VII Waste Management Division Records Center, 726 Minnesota Avenue, Kansas City, Kansas, and at the Sedgwick County Public Library, Main Branch, 223 S. Main Street, Wichita, Kansas. For further information contact Diane Brewer, Environmental Protection Specialist, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66212, telephone (913) 551-7811.

Pagano Salvage, Los Lunas, New Mexico

EPA published a Notice of Intent to Delete the site on June 29, 1992 (57 FR 28817). EPA also published a notification in a local newspaper on June 28, 1992 regarding the proposed deletion. The closing date for comments was July 28, 1992. EPA received several comments regarding the deletion. After reviewing these comments, EPA has concluded that deletion of the site at this time is appropriate. EPA provided detailed responses to these comments in a responsiveness summary which is contained in the Deletion Docket. Entries in the Deletion Docket may be reviewed at the U.S. EPA Region VI office, 1445 Ross Avenue, 12th Floor suite 1200, Dallas, Texas and at the New Mexico Environmental Department in Santa Fe, New Mexico. For further information contact Carlos Sanchez, Remedial Project Manager, U.S. EPA, Region VI (6H-SA), 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 655-8507.

BEC (Binghamton Equipment Co.) Trucking, Town of Vestal, New York.

EPA published a Notice of Intent to Delete the site on August 24, 1992 (57 FR 38289). EPA also published a notification in one local newspaper on August 19, 1992 regarding the proposed deletion. The closing date for comments was September 18, 1992. EPA received four comments.

One commenter expressed concern about a potential threat to the Town's water supply wells, and suggested that deleting the site from the NPL at this time is premature. Based upon the results of extensive investigations, EPA, in consultation with the State of New York, determined that the site does not pose a significant threat to human

health or the environment. Therefore, taking additional remedial measures is not appropriate.

The other three commenters indicated that the site should not be deleted since they believe that it should continue to be monitored. Deletion of the site from the NPL does not preclude continued monitoring at the site. In fact, the ROD provides for a continued monitoring program to verify that the remedy continues to be protective of human health and the environment.

After reviewing these comments, EPA has concluded that deletion of the site at this time is appropriate. EPA provided detailed responses to these comments in a responsiveness summary which is contained in the Deletion Docket. Entries in the Deletion Docket may be reviewed at the U.S. EPA Region II office in New York; at the Vestal Town Hall, 605 Vestal Parkway West, Vestal, New York; and the Vestal Public Library, 320 Vestal Parkway East, Vestal, New York. For further information contact Arnold Bernas, Remedial Project Manger, Superfund Branch, U.S. EPA Region II (2 ERRD–NYCS1), 26 Federal Plaza, Room 29–30, New York, New York, telephone (212) 264–7612.

Westline Site, Westline, Pennsylvania

EPA published a Notice of Intent to Delete the site on December 17, 1991 (56 FR 65462). EPA also published a notification in three local newspapers on December 9, 1991 regarding the proposed deletion. The closing date for comments was January 16, 1992. EPA received one comment, which was in favor of deleting the site. After reviewing the comment, EPA has concluded that deletion of the site at this time is appropriate. Entries in the Deletion Docket may be reviewed at the U.S. EPA Region III office in Philadelphia, Pennsylvania; the McKean County Courthouse in Smethport, Pennsylvania; the Bradford Area Public Library in Bradford, Pennsylvania; and the Westline Firehall in Westline, Pennsylvania. For further information contact Roy Schrock, Remedial Project Manager, Superfund Branch, U.S. EPA, Region III (3HW22), 841 Chestnut St., Philadelphia, Pennsylvania 19107, telephone (215) 597–0913.

In addition to the 44 sites that have been deleted from the NPL, 105 sites are in the construction or site completion categories, all but one from the General Superfund Section. Thus, as of September 30, 1992, a total of 149 NPL sites have been cleaned up.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of August 31, 1992, EPA has conducted 2,349 removal actions, 557 of them at NPL sites. The removal actions taken will either stabilize or completely clean up the site. Information on removals is available from the Superfund hotline.

Information Available to the Public

The Headquarters and Regional public dockets for the NPL contain documents relating to the evaluation and scoring of sites in this final rule. The dockets are available for viewing, by appointment only, after the appearance of this notice. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Please contact individual Regional Dockets for hours.

Addresses for the Headquarters and Regional dockets follow.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS–245, Waterside Mall, 401 M Street, SW, Washington, DC 20460, 202/260–3046

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES–CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–5729

Ben Conetta, Region 2, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, 212/264–6696

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597–7904

Beverly Fulwood, Region 4, U.S. EPA Library, Room G–6, 345 Courtland Street, NE, Atlanta, GA 30365, 404/347–4216

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Blvd., Chicago, IL 60604, 312/886–6214

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7241

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/294–7598

Lisa Nelson, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103

The Headquarters docket for this rule contains HRS score sheets for each final site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by statutory requirements or EPA listing policies; a list of documents referenced in the Documentation Record; comments received; and the Agency's response to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List Final Rule—October 1992." Each Regional docket for this rule contains all information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. The Headquarters docket and the Region 3 docket also contain documents relating to the decision to add the Austin Avenue Radiation Site in Delaware County, PA, to the NPL. Both dockets contain the public health advisory issued by ATSDR and EPA memoranda supporting the findings that the release poses a significant threat to public health and that it would be more cost-effective to use remedial rather than removal authorities at the site.

Interested parties may view documents, by appointment only, in the Headquarters or appropriate Regional Docket or copies may be requested from the Headquarters or appropriate Regional Docket. An information written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to service as an information and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed

remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

Implementation

After initial discovery of a site at which a release or threatened release may exist, EPA begins a series of increasingly complex evaluations. The first step, the Preliminary Assessment (PA), is a low-cost review of existing information to determine if the site poses a threat to the public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA generally will perform a more extensive study called the Site Inspection (SI). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites that warrant placement on the NPL and further study. To date EPA has completed approximately 33,000 PAs and approximately 16,000 SIs.

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL; although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.415(b)(2) (55 FR 8842, March 8, 1990). EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, to proceed directly with Trust Fund-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although it is a factor that is considered, the ranking of sites by HRS scores does not by itself determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to determine either the extent of contamination or the appropriate response for a particular site. (40 CFR 300.425(a)(2), 55 FR 8845). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways; only those presenting significant environmental risk and sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it already was underway. In addition, certain sites, such as the Austin Avenue Radiation Site, are based on other criteria. More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study ("RI/FS") that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy (40 CFR 300.430(a)(2)) (55 FR 8846, March 8, 1990). It takes into account the amount of contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 (55 FR 8842, March 8, 1990) and 40 CFR 300.430 (55 FR 8846, March 8, 1990). After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup already is underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Trust Fund-financed response action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge of the geographic extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability nor define the geographic extent of a release, a listing need not be amended if further research into the contamination at a site reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

II. Contents of This Final Rule

This final rule adds 26 sites to the General Superfund Section of the NPL (Table 1) and 7 sites to the Federal Facilities Section (Table 2). Proposal #11 (56 FR 35840, July 29, 1991) provided 15 of the sites; all are being added to the NPL based on HRS scores of 28.50 or greater. Proposal #12 (57 FR 4824, February 7, 1992) provided 18 sites; all but one are being added to the NPL based on HRS scores of 28.50 or greater The Austin Avenue Radiation Site is

being added to the NPL on the basis of 40 CFR 300.425(c)(3) (55 FR 8845, March 8, 1990). A description of the site and EPA's basis for listing it were included when the site was proposed. As discussed more fully below, Table 1 presents the sites in this rule arranged alphabetically by State and identifies their rank by group number. Group numbers are determined by arranging the NPL by rank and dividing it into groups of 50 sites. For example, a site in Group 4 has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

NATIONAL PRIORITIES LIST FINAL RULE—GENERAL SUPERFUND SECTION

State	Site name	Location	Group
AR	Popile, Inc.	El Dorado	6
AR	South 8th Street Landfill (once listed as West Memphis Landfill)	West Memphis	4
CA	McCormick & Baxter Creosoting Co.	Stockton	1
CA	Ralph Gray Trucking Co. (once listed as Westminster Tract #2633)	Westminster	15
FL	Helena Chemical Co. (Tampa Plant)	Tampa	20
IL	Ottawa Radiation Areas	Ottawa	5
KS	57th and North Broadway Streets Site	Wichita Heights	5
KY	National Electric Coil Co./Cooper Industries	Dayhoit	5
LA	American Creosote Works, Inc. (Winnfield Plant)	Winnfield	4
MO	Big River Mine Tailings/St. Joe Minerals Corp	Desloge	1
NE	Cleburn Street Well	Grand Island	5
NE	Sherwood Medical Co	Norfolk	5
NH	New Hampshire Plating Co.	Merrimack	5
NY	Li Tungsten Corp.	Glen Cove	5
OR	Northwest Pipe & Casing Co.	Clackamas	4
PA	Austin Avenue Radiation Site	Delaware County	*
PA	Crater Resources, Inc./Keystone Coke Co./Alan Wood Steel Co.	Upper Merion Township	5
PA	Crossley Farm	Hereford Township	21

*Based on issuance of health advisory by the Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be >28.50).

State	Site name	Location	Group
PA	Foote Mineral Co.	East Whiteland Township.	5
PA	Metropolitan Mirror and Glass Co., Inc.	Frackville.	15
PA	Rodale Manufacturing Co., Inc.	Emmaus Borough.	5
RI	West Kingston Town Dump/URI Disposal Area.	South Kingstown.	5
UT	Petrochem Recycling Corp / Ekotek, Inc.	Salt Lake City.	1
WA	Moses Lake Wellfield Contamination.	Moses Lake.	5
WA	Vancouver Water Station #4 Contamination.	Vancouver.	5
WI	Refuse Hideaway Landfill	Middleton.	15

Number of Sites Listed: 28.

NATIONAL PRIORITIES LIST FINAL RULE—FEDERAL FACILITIES SECTION

State	Site name	Location	Group
CA	Jet Propulsion Laboratory (NASA).	Pasadena.	5
GU	Andersen Air Force Base.	Yigo	5
HI	Pearl Harbor Naval Complex.	Pearl Harbor.	1
TN	Memphis Defense Depot.	Memphis	2
VA	Naval Surface Warfare Center—Dahigren.	Dahigren	5

NATIONAL PRIORITIES LIST FINAL RULE—FEDERAL FACILITIES SECTION—Continued

State	Site name	Location	Group
VA	Naval Weapons Station—Yorktown.	Yorktown	5
WA	Hamilton Island Landfill (USA/COE).	North Bonneville.	4

Number of Sites Listed: 7.

Public Comments

EPA reviewed all comments received on sites included in this rule. The formal comment period ended March 9, 1992 for the Austin Avenue Radiation site, April 7, 1992 for all other sites included from Proposal 12, and September 27, 1991 for all sites included from Proposal 11.

Based on the comments received on the proposed sites, as well as investigation by EPA and the States (generally in response to comment), EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List Final Rule—October 1992." For 20 of the sites, including the Austin Avenue Radiation site, EPA received no comments.

NPL Format

Since promulgation of the original NPL (Appendix B of 40 CFR Part 300) on September 8, 1983 (48 FR 40660), EPA has arranged the NPL by rank based on HRS scores. Sites in the General Superfund Section of the NPL were presented in groups of 50 (with their rank) to emphasize that minor differences in scores do not necessarily represent significantly different levels of risk. Sites on the Federal Facilities Section were presented by group number. In addition, each preamble for a proposed rule provided the group number for each proposed site.

On July 29, 1991 (56 FR 35843), EPA proposed to change the NPL format and list sites alphabetically by State and by site name within each State. EPA proposed this change because the growth of the NPL has made it increasingly difficult for users to find individual sites. Almost all public requests about the NPL ask if a particular site in a particular State is on the NPL, or ask for all sites in specific States, rather than ranks or scores for individual sites. In addition, the increase in the size of the NPL has meant that different groups of 50 may no longer represent significantly different scores.

EPA received seven comments supporting the change in format and no negative comments. The comments supported EPA's view that information by State is most helpful and questions of rank are infrequent.

As a result of the support received for EPA's proposed format change, and lack of negative comments, EPA will present Appendix B alphabetically by State

beginning with the NPL following this preamble.

EPA recognizes that some requests are for rankings. On July 29, 1991 (56 FR 35843), EPA also requested comment on whether each preamble should continue to include a ranking for sites in that particular rule, and if so, what form that ranking should take. One commenter suggested that sites be ranked by thirds based on score; another suggested the sites be listed alphabetically and be accompanied by HRS scores. No other comments addressed this issue. In response, because of these concerns that some form of ranking sites be maintained, the preamble of each rule will list proposed or final sites alphabetically by State and also identify the group number for each site. EPA believes this is a reasonable compromise between the need to make the NPL more useful, and the need to retain some indication of site rank.

EPA will continue to provide lists of all NPL sites ranked by HRS scores upon request to the Superfund Hotline, Phone (800) 424–9346 or (703) 920–9810 in the Washington, DC, metropolitan area. Requestors should note that EPA generally is able to respond more quickly to an informal request than to a formal request under the Freedom of Information Act.

Costs

One commenter questioned the cost estimates presented in the Regulatory Impact Analysis (RIA) section of the preamble to the July 29, 1991, proposed rule (56 FR 35845). The commenter stated that the values were substantially different from values in a similar table published on August 30, 1990 (55 FR 35511). The commenter also suggested that the Agency's cost estimate for operation and maintenance (O & M) of the cleanup remedy should be adjusted to account for inflation.

In response, the Agency inadvertently used an outdated table of cost estimates in the RIA section in the July 29, 1991, proposed rule. The following table shows the correct values:

Cost category	Average total cost per site [1]
RI/FS	1,300,000
Remedial Design	1,500,000
Remedial Action	[2] 25,000,000
Net present value of O&M [3]	[2] 3,770,000

[1] 1988 U.S. Dollars.
[2] Includes State cost-share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.
Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington DC

In response to the suggestion that the Agency account for inflation in cost estimates for O&M of cleanup remedies, the numbers do not account for inflation. The Agency uses current cost estimates because it cannot predict future inflation levels.

Statutory Requirements

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this final rule cover sites subject to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901–6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings.

Releases From Resource Conservation and Recovery Act (RCRA) Sites

EPA's policy is that sites in the General Superfund Section subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to Subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained this policy in detail in the past (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is adding three sites to the NPL, McCormick & Baxter Creosoting Co. in Stockton, CA, New Hampshire Plating Co. in Merrimack, NH, and Petrochem Recycling Corp./Ekotek, Inc. in Salt Lake City, UT, that are subject to RCRA Subtitle C corrective action authorities. Material has been placed in the public docket for the Petrochem Recycling Corp./Ekotek, Inc. site and the McCormick & Baxter Creosoting Co. site confirming that the owners are in bankruptcy and unable to pay for cleanup. Regarding the New Hampshire Plating Co. site, even though the owner has not formally invoked the bankruptcy laws, available documentation indicates that the company assets cannot cover a current State lien on the property for response action, much less address any new expenses that would be incurred in financing corrective action. A more detailed discussion of this issue as well as supporting documentation is available in the public docket for this site.

Releases From Federal Facility Sites

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL that meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA Subtitle C. In that way, those sites may be cleaned up under CERCLA, if appropriate.

This rule adds seven sites to the Federal Facilities Section of the NPL.

Name Revision

The names of two sites addressed in this final rule have been changed based upon additional information obtained since the sites were proposed. The site proposed as "Westminster Tract #2633 in Westminster, CA, has been changed to Ralph Gray Trucking Co. The site proposed as the West Memphis Landfill in West Memphis, AR, has been changed to the South 8th Street Landfill. Finally, the name of a site previously placed on the NPL, Holton Circle Ground Water Contamination Site, in Londonderry, NH, has been changed to Town Garage/Radio Beacon. These changes make it easier for the public to identify the sites.

IV. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of this amendment to the NCP. EPA believes that the kinds of economic effects associated with this revision to the NPL are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the

economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

This final rulemaking is not a "major" regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party to determine any party's liability for site response costs. Costs that arise out of responses at sites in the General Superfund Section result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs that may be associated with responding to all sites in this rule. Placing of a site on the NPL may be followed by a search for potentially responsible parties and a Remedial Investigation/Feasibility Study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial design and remedial action, and O&M, or EPA and the States may share costs up from and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Trust Fund-financed actions is governed by CERCLA section 104(c). For privately-owned sites, as well as publicly-owned but not publicly-operated sites, EPA will pay from the Trust Fund for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For sites operated by a State or political subdivision, the State's share is at least 50% of all response costs at the site, including the cost associated with the RI/FS, remedial design, and construction and implementation of the remedial action selected. After construction of the remedy is complete, costs fall into two categories:

- For restoration of ground water and surface water, EPA will pay from the Trust Fund a share of the start-up costs according to the cost-allocation criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3). After that, the State assumes all O&M costs. 40 CFR 300.435 (f)(1).
- For other cleanups, EPA will pay from the Trust Fund a share of the costs of a remedy according to the cost-allocation criteria in the previous paragraph until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site [1]
RI/FS	$1,300,000
Remedial design	1,500,000
Remedial action	[2] 25,000,000
Net present value of O&M [3]	[2] 3,770,000

[1] 1988 U.S. Dollars.
[2] Includes State cost-share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.
Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Possible costs to States associated with today's final rule for Trust Fund-financed response action arise from the required State cost-share of: (1) for privately owned sites at which remedial action involving treatment to restore ground and surface water quality are undertaken, 10% of the cost of constructing the remedy, and 10% of the cost of operating the remedy for a period up to 10 years after the remedy becomes operational and functional; (2) for privately-owned sites at which other remedial actions are undertaken, 10% of the cost of all remedial action, and 10% of costs incurred within one year after remedial action is complete to ensure that the remedy is operational and functional; and (3) for sites publicly-operated by a State or political subdivision at which response actions are undertaken, at least 50% of the cost of all response actions. States must assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately $99 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately $83 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this proposal on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's final rule are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the

potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Listing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at these sites.

V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule revises the NCP, it is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that the listing of the sites in this NPL rule could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this rule does not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: October 5, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

PART 300—[AMENDED]

1. The authority citation for part 300 is revised to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Appendix B to part 300 is revised to read as set forth below:

Appendix B—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992

State and site name	City/county	Notes
Alaska:		
Alaska Battery Enterprises	Fairbanks N Star Borough	
Arctic Surplus	Fairbanks	
Alabama:		
Ciba-Geigy Corp. (McIntosh Plant)	McIntosh	
Interstate Lead Co. (ILCO)	Leeds	
Mowbray Engineering Co	Greenville	C
Olin Corp. (McIntosh Plant)	McIntosh	
Perdido Ground Water Contamination	Perdido	
Redwing Carriers, Inc. (Saraland)	Saraland	
Stauffer Chemical Co. (Cold Creek Plant)	Bucks	
Stauffer Chemical Co. (LeMoyne Plant)	Axis	
T.H. Agriculture & Nutrition Co. (Montgomery Plant)	Montgomery	
Triana/Tennessee River (once listed as Triana (Redstone) Arsenal)	Limestone/Morgan	C
Arkansas:		
Arkwood, Inc	Omaha	
Frit Industries	Walnut Ridge	
Gurley Pit	Edmonson	
Industrial Waste Control	Fort Smith	C
Jacksonville Municipal Landfill	Jacksonville	
Mid-South Wood Products	Mena	C
Midland Products	Ola/Birta	
Monroe Auto Equipment Co. (Paragould Pit)	Paragould	
Popile, Inc	El Dorado	
Rogers Road Municipal Landfill	Jacksonville	
South 8th Street Landfill	West Memphis	
Vertac, Inc	Jacksonville	
Arizona:		
Apache Powder Co	St. David	
Hassayampa Landfill	Hassayampa	
Indian Bend Wash Area	Scottsdale/Tempe/Phoenix	
Litchfield Airport Area	Goodyear/Avondale	
Motorola, Inc. (52nd Street Plant)	Phoenix	
Nineteenth Avenue Landfill	Phoenix	
Tucson International Airport Area	Tucson	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
California:		
Advanced Micro Devices, Inc. (Building 915)	Sunnyvale	C
Advanced Micro Devices, Inc	Sunnyvale	
Aerojet General Corp	Rancho Cordova	
Applied Materials	Santa Clara	
Atlas Asbestos Mine	Fresno County	
Beckman Instruments (Porterville Plant)	Porterville	
Brown & Bryant, Inc. (Arvin Plant)	Arvin	
Celtor Chemical Works	Hoopa	C
Coalinga Asbestos Mine	Coalinga	
Coast Wood Preserving	Ukiah	
Crazy Horse Sanitary Landfill	Salinas	
CTS Printex, Inc	Mountain View	C
Del Norte Pesticide Storage	Crescent City	C
Fairchild Semiconductor Corp. (Mountain View Plant) (once listed as Fairchild Camera & Instrument Corp. (Mountain View Plant)).	Mountain View	
Fairchild Semiconductor Corp. (South San Jose Plant) (once listed as Fairchild Camera & Instrument Corp. (South San Jose Plant)).	South San Jose	C
Firestone Tire & Rubber Co. (Salinas Plant)	Salinas	C
Fresno Municipal Sanitary Landfill	Fresno	
Hewlett-Packard (620-640 Page Mill Road)	Palo Alto	
Hexcel Corp	Livermore	
Industrial Waste Processing	Fresno	
Intel Corp (Mountain View Plant)	Mountain View	
Intel Corp (Santa Clara III)	Santa Clara	C
Intel Magnetics	Santa Clara	C
Intersil Inc./Siemens Components	Cupertino	C
Iron Mountain Mine	Redding	
J.H. Baxter & Co	Weed	
Jasco Chemical Corp	Mountain View	
Koppers Co., Inc (Oroville Plant)	Oroville	
Liquid Gold Oil Corp	Richmond	
Lorentz Barrel & Drum Co	San Jose	
Louisiana-Pacific Corp	Oroville	
McColl	Fullerton	
McCormick & Baxter Creosoting Co	Stockton	
MGM Brakes	Cloverdale	
Modesto Ground Water Contamination	Modesto	
Monolithic Memories	Sunnyvale	
Montrose Chemical Corp	Torrance	
National Semiconductor Corp	Santa Clara	
Newmark Ground Water Contamination	San Bernardino	
Operating Industries, Inc., Landfill	Monterey Park	
Pacific Coast Pipe Lines	Fillmore	
Purity Oil Sales, Inc	Malaga	
Ralph Gray Trucking Co	Westminster	
Raytheon Corp	Mountain View	
San Fernando Valley (Area 1)	Los Angeles	
San Fernando Valley (Area 2)	Los Angeles/Glendale	
San Fernando Valley (Area 3)	Glendale	
San Fernando Valley (Area 4)	Los Angeles	
San Gabriel Valley (Area 1)	El Monte	
San Gabriel Valley (Area 2)	Baldwin Park Area	
San Gabriel Valley (Area 3)	Alhambra	
San Gabriel Valley (Area 4)	La Puente	
Selma Treating Co	Selma	
Sola Optical USA, Inc	Petaluma	C
South Bay Asbestos Area (once listed as Alviso Dumping Area)	Alviso	C
Southern California Edison Co (Visalia Poleyard)	Visalia	
Spectra-Physics, Inc	Mountain View	C
Stringfellow	Glen Avon Heights	S
Sulphur Bank Mercury Mine	Clear Lake	
Synertek, Inc. (Building 1)	Santa Clara	C
T.H. Agriculture & Nutrition Co. (once listed as Thompson-Haywood Chemical Co.)	Fresno	
Teledyne Semiconductor	Mountain View	C
TRW Microwave, Inc (Building 825)	Sunnyvale	
United Heckathorn Co	Richmond	
Valley Wood Preserving, Inc	Turlock	
Waste Disposal, Inc	Santa Fe Springs	
Watkins-Johnson Co. (Stewart Division)	Scotts Valley	
Western Pacific Railroad Co	Oroville	
Westinghouse Electric Corp. (Sunnyvale Plant)	Sunnyvale	
Colorado:		
Broderick Wood Products	Denver	
California Gulch	Leadville	
Central City—Clear Creek	Idaho Springs	
Chemical Sales Co	Denver	
Denver Radium Site	Denver	
Eagle Mine	Minturn/Redcliff	
Lincoln Park	Canon City	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Lowry Landfill	Arapaho County	
Marshall Landfill	Boulder County	S
Sand Creek Industrial	Commerce City	
Smuggler Mountain	Pitkin County	
Uravan Uranium Project (Union Carbide Corp.)	Uravan	
Woodbury Chemical Co	Commerce City	C
Connecticut:		
Barkhamstead—New Hartford Landfill	Barkhamsted	
Beacon Heights Landfill	Beacon Falls	
Cheshire Ground Water Contamination (once listed as Cheshire Associates Property)	Cheshire	
Durham Meadows	Durham	
Gallup's Quarry	Plainfield	
Kellogg—Deering Well Field	Norwalk	
Laurel Park, Inc. (once listed as Laurel Park Landfill)	Naugatuck Borough	
Linemaster Switch Corp	Woodstock	
Nutmeg Valley Road	Wolcott	
Old Southington Landfill	Southington	
Precision Plating Corp	Vernon	
Revere Textile Prints Corp	Sterling	C
Solvents Recovery Service of New England	Southington	
Yaworski Waste Lagoon	Canterbury	
Delaware:		
Army Creek Landfill (once listed as Delaware Sand & Gravel—Llangollen Army Creek Landfills).	New Castle County	
Chem-Solv, Inc	Cheswold	
Coker's Sanitation Service Landfills	Kent County	
Delaware City PVC Plant (once listed as Stauffer Chemical Co.)	Delaware City	
Delaware Sand & Gravel Landfill (once listed as Delaware Sand & Gravel—Llangollen Army Creek Landfills).	New Castle County	
Dover Gas Light Co	Dover	
E.I. Du Ponte de Nemours & Co., Inc. (Newport Pigment Plant Landfill)	Newport	
Halby Chemical Co	New Castle	
Harvey & Knott Drum, Inc	Kirkwood	
Koppers Co., Inc. (Newport Plant)	Newport	
NCR Corp. (Millsboro Plant)	Millsboro	
New Castle Spill (once listed as TRIS Spill)	New Castle County	C
Seal and Limited	Mount Pleasant	C
Standard Chlorine of Delaware, Inc	Delaware City	
Sussex County Landfill No. 5	Laurel	
Tybouts Corner Landfill	New Castle County	S
Tyler Refrigeration Pit	Smyrna	
Wildcat Landfill	Dover	C
Florida:		
Agrico Chemical Co	Pensacola	
Airco Plating Co	Miami	
Alpha Chemical Corp	Galloway	C
American Creosote Works, Inc. (Penacola Plant) (once listed as American Creosote Works).	Pensacola	
Anaconda Aluminum Co./Milgo Electronics Corp	Miami	
Anodyne, Inc	North Miami Beach	
B&B Chemical Co., Inc	Hialeah	
Beulah Landfill	Pensacola	
BMI—Textron	Lake Park	
Broward County—21st Manor Dump	Fort Lauderdale	
Brown Wood Preserving	Live Oak	C
Cabot/Koppers	Gainesville	
Chemform, Inc	Pompano Beach	
City Industries, Inc	Orlando	
Coleman-Evans Wood Preserving Co	Whitehouse	
Davie Landfill (once listed as Broward County Solid Waste Disposal Facility)	David	
Dubose Oil Products Co	Cantonment	
Florida Steel Corp	Indiantown	
Gold Coast Oil Corp	Miami	C
Harris Corp. (Palm Bay Plant) (Once listed as Harris Corp./General Development Utilities).	Palm Bay	
Helena Chemical Co. (Tampa Plant)	Tampa	
Hipps Road Landfill	Duval County	
Hollingsworth Solderless Terminal	Fort Lauderdale	
Kassauf-Kimerling Battery Disposal (once listed as Timber Lake Battery Disposal)	Tampa	
Madison County Sanitary Landfill	Madison	
Miami Drum Services (once listed as part of Biscayne Aquifer)	Miami	
Munisport Landfill	North Miami	
Northwest 58th Street Landfill (once listed as part of Biscayne Aquifer)	Hialeah	
Peak Oil Co./Bay Drum Co	Tampa	
Pepper Steel & Alloys, Inc	Medley	
Petroleum Products Corp	Pembroke Park	
Pickettville Road Landfill	Jacksonville	
Pioneer Sand Co	Warrington	C
Piper Aircraft/Vero Beach Water & Sewer Department	Vero Beach	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Reeves Southeast Galvanizing Corp	Tampa	
Sapp Battery Salvage	Cottondale	
Schuylkill Metals Corp	Plant City	
Sherwood Medical Industires	Deland	
Sixty-Second Street Dump	Tampa	
Standard Auto Bumper Corp	Hialeah	
Sydney Mine Sludge Ponds	Brandon	
Taylor Road Landfill	Selfner	
Tower Chemical Co	Clermont	
Whitehouse Oil Pits	Whitehouse	
Wilson Concepts of Florida, Inc	Pompano Beach	C
Wingate Road Municipal Incinerator Dump	Fort Lauderdale	
Woodbury Chemical Co. (Princeton Plant)	Princeton	C
Yellow Water Road Dump	Baldwin	
Zellwood Ground Water Contamination	Zellwood	
Georgia:		
Cedartown Industries, Inc	Cedartown	
Cedartown Municipal Landfill	Cedartown	
Diamond Shamrock Crop. Landfill	Cedartown	
Firestone Tire & Rubber Co. (Albany Plant)	Albany	
Hercules 009 Landfill	Brunswick	
Marzone Inc./Chevron Chemical Co	Tifton	
Mathis Brothers Landfill (South Marble Top Road)	Kensington	
Monsanto Corp. (Augusta Plant)	Augusta	
Powersville Site	Peach County	
T.H. Agriculture & Nutrition Co. (Albany Plant)	Albany	
Woolfolk Chemical Works, Inc	Fort Valley	
Guam: Ordot Landfill	Guam	C,S
Iowa:		
Aidex Corp	Council Bluffs	C,S
Des Mones TCE (once listed as DICO)	Des Moines	
E.I. Du Pont de Nemours Co., Inc. (County Road X23)	West Point	
Electro-Coatings, Inc	Cedar Rapids	
Fairfield Coal Gasification Plant	Fairfield	
Farmers' Mutual Cooperative	Hospers	
John Deere (Ottumwa Works Landfills)	Ottumwa	C
LaBounty Site	Charles City	C
Lawrence Todtz Farm	Camanche	C
Lehigh Portland Cement Co	Mason City	
Mid-America Tanning Co	Sergeant Bluff	
Midwest Manufacturing/North Farm	Kellogg	
Northwestern States Portland Cement Co.	Mason City	
Peoples Natural Gas Co	Dubuque	
Red Oak City Landfill	Red Oak	
Shaw Avenue Dump	Charles City	
Sheller-Globe Corp. Disposal	Keokuk	
Vogel Paint & Wax Co	Orange City	
White Farm Equipment Co. Dump	Charles City	
Idaho:		
Arrcom (Drexler Enterprises)	Rathdrum	C
Bunker Hill Mining & Metallurgical	Smelterville	
Eastern Michaud Flats Contamination	Pocatello	
Kerr-McGee Chemical Corp. (Soda Springs Plant)	Soda Springs	
Monsanto Chemical Co. (Soda Springs Plant)	Soda Springs	
Pacific Hide & Fur Recycling Co	Pocatello	
Union Pacific Railroad Co	Pocatello	
Illinois:		
A & F Material Reclaiming, Inc	Greenup	C
Acme Solvent Reclaiming, Inc. (Morristown Plant)	Morristown	
Adams County Quincy Landfills 2 & 3	Quincy	
Amoco Chemicals (Joliet Landfill)	Joliet	
Beloit Corp	Rockton	
Belvidere Municipal Landfill	Belvidere	C
Byron Salvage Yard	Byron	
Central Illinois Public Service Co	Taylorville	
Cross Brothers Pail Recycling (Pembroke)	Pembroke Township	
DuPage County Landfill/Blackwell Forest Preserve	Warrenville	
Galesburg/Koppers Co	Galesburg	
H.O.D. Landfill	Antioch	
Ilada Energy Co	East Cape Girardeau	
Interstate Pollution Control, Inc	Rockford	
Johns-Manville Corp	Waukegan	C
Kerr-McGee (Kress Creek/West Branch of DuPage River)	DuPage County	
Kerr-McGee (Reed-Keppler Park)	West Chicago	
Kerr-McGee (Residential Areas)	W Chic/DuPage County	
Kerr-McGee (Sewage Treatment Plant)	West Chicago	
LaSalle Electric Utilities	LaSalle	
Lenz Oil Service, Inc	Lemont	
MIG/Dewane Landfill	Belvidere	
NL Industries/Taracorp Lead Smelter	Granite City	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Ottawa Radiation Areas	Ottawa	
Outboard Marine Corp	Waukegan	S
Pagel's Pit	Rockford	
Parsons Casket Hardware Co	Belvidere	
Southeast Rockford Ground Water Contamination	Rockford	
Tri-County Landfill Co./Waste Management of Illinois, Inc	South Elgin	
Velsicol Chemical Corp. (Illinois)	Marshall	
Wauconda Sand & Gravel	Wauconda	
Woodstock Municipal Landfill	Woodstock	
Yeoman Creek Landfill	Waukegan	
Indiana:		
American Chemical Service, Inc	Griffith	
Bennett Stone Quarry	Bloomington	
Carter Lee Lumber Co	Indianapolis	
Columbus Old Municipal Landfill ;1	Columbus	
Conrail Rail Yard (Elkhart)	Elkhart	
Continental Steel Corp	Kokomo	
Douglass Road/Uniroyal, Inc., Landfill	Mishawaka	
Envirochem Corp	Zionsville	
Fisher-Calo	LaPorte	
Fort Wayne Reduction Dump	Fort Wayne	
Galen Myers Dump/Drum Salvage	Osceola	
Himco Dump	Elkhart	
Lake Sandy Jo (M&M Landfill) (once listed as Lake Sandy Jo)	Gary	
Lakeland Disposal Service, Inc	Claypool	
Lemon Lane Landfill	Bloomington	
Main Street Well Field	Elkhart	
Marion (Bragg) Dump	Marion	
MIDCO I	Gary	
MIDCO II	Gary	
Neal's Dump (Spencer)	Spencer	
Neal's Landfill (Bloomington)	Bloomington	
Ninth Avenue Dump	Gary	
Northside Sanitary Landfill, Inc	Zionsville	
Prestolite Battery Division	Vincennes	
Reilly Tar & Chemical Corp. (Indianapolis Plant)	Indianapolis	
Seymour Recycling Corp	Seymour	S
Southside Sanitary Landfill	Indianapolis	
Tippecanoe Sanitary Landfill, Inc	Lafayette	
Tri-State Plating	Columbus	C
Waste, Inc., Landfill	Michigan City	
Wayne Waste Oil	Columbia City	
Whiteford Sales & Service Inc./National Lease	South Bend	
Kansas:		
29th & Mead Ground Water Contamination	Wichita	
57th and North Broadway Streets Site	Wichita Heights	
Arkansas City Dump	Arkansas City	C,S
Cherokee County (once listed as Tar Creek, Cherokee County)	Cherokee County	
Doepke Disposal (Holliday)	Johnson County	
Hydro-Flex Inc	Topeka	C
Obee Road	Hutchinson	
Pester Refinery Co	El Dorado	
Strother Field Industrial Park	Cowley County	
Kentucky:		
A.L. Taylor (Valley of Drums)	Brooks	C,S
Airco	Calvert City	
B.F. Goodrich	Calvert City	
Brantley Landfill	Island	
Caldwell Lace Leather Co., Inc	Auburn	
Distler Brickyard	West Point	
Distler Farm	Jefferson County	C
Fort Hartford Coal Co. Stone Quarry	Olaton	
General Tire & Rubber Co. (Mayfield Landfill)	Mayfield	
Green River Disposal, Inc	Maceo	
Howe Valley Landfill	Howe Valley	
Lee's Lane Landfill	Louisville	C
Maxey Flats Nuclear Disposal	Hillsboro	
National Electric Coil Co./Cooper Industries	Dayhoit	
Newport Dump	Newport	C
Red Penn Sanitation Co. Landfill	PeeWee Valley	
Smith's Form	Brooks	
Tri-City Disposal Co	Shepherdsville	
Louisiana:		
American Creosote Works, Inc. (Winnfield Plant)	Winnfield	
Bayou Bonfouca	Slidell	
Bayou Sorrel Site	Bayou Sorrel	C
Cleve Reber	Sorrento	
Combustion, Inc	Denham Springs	
D.L. Mud, Inc	Abbeville	
Dutchtown Treatment Plant	Ascension Parish	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Gulf Coast Vacuum Services	Abbeville	
Old Inger Oil Refinery	Darrow	S
PAB Oil & Chemical Service, Inc	Abbeville	
Petro-Processors of Louisiana Inc	Scotlandville	
Massachusetts:		
Atlas Tack Corp	Fairhaven	
Baird & McGuire	Holbrook	
Cannon Engineering Corp. (CEC)	Bridgewater	C
Charles-George Reclamation Trust Landfill	Tyngsborough	
Groveland Wells	Groveland	
Haverhill Municipal Landfill	Haverhill	
Hocomonco Pond	Westborough	
Industri-Plex (once listed as Mark Phillip Trust)	Woburn	
Iron Horse Park	Billerica	
New Bedford Site	New Bedford	S
Norwood PCBs	Norwood	
Nyanza Chemical Waste Dump	Ashland	
Plymouth Harbor/Cannon Engineering Corp. (once listed as Plymouth Harbor/Cordage).	Plymouth	C
PSC Resources	Palmer	
Re-Solve, Inc	Dartmouth	
Rose Disposal Pit	Lanesboro	
Salem Acres	Salem	
Shpack Landfill	Norton/Attleboro	
Silresim Chemical Corp	Lowell	
Sullivan's Ledge	New Bedford	
W.R. Grace & Co. Inc. (Acton Plant)	Acton	
Wells G&H	Woburn	
Maryland:		
Bush Valley Landfill	Abingdon	
Kane & Lombard Street Drums	Baltimore	
Limestone Road	Cumberland	
Mid-Atlantic Wood Preservers, Inc	Harmans	
Sand, Gravel & Stone	Elkton	
Southern Maryland Wood Treating	Hollywood	
Woodlawn County Landfill	Woodlawn	
Maine:		
McKin Co	Gray	C
O'Connor Co	Augusta	
Pinette's Salvage Yard	Washburn	
Saco Municipal Landfill	Saco	
Saco Tannery Waste Pits	Saco	
Union Chemical Co., Inc	South Hope	
Winthrop Landfill	Winthrop	
Michigan:		
Adam's Plating	Lansing	
Albion-Sheridan Township Landfill	Albion	
Allied Paper, Inc./Portage Creek/Kalamazoo River	Kalamazoo	
American Anodco, Inc	Ionia	
Anderson Development Co	Adrian	
Auto Ion Chemicals, Inc	Kalamazoo	
Avenue "E" Ground Water Contamination	Traverse City	
Barrels, Inc	Lansing	
Bendix Corp./Allied Automotive	St. Joseph	
Berlin & Farro	Swartz Creek	
Bofors Nobel, Inc	Muskegon	
Burrows Sanitation	Hartford	
Butterworth ;2 Landfill	Grand Rapids	
Cannelton Industries, Inc	Saulte Sainte Marie	
Carter Industrials, Inc	Detroit	
Cemetery Dump	Rose Center	C
Charlevoix Municipal Well	Charlevoix	C
Chem Central	Wyoming Township	
Clare Water Supply	Clare	
Cliff/Dow Dump	Marquette	
Duell & Gardner Landfill	Dalton Township	
Electrovoice	Buchanan	
Folkertsma Refuse	Grand Rapids	
Forest Waste Products	Otisville	
G&H Landfill	Utica	
Grand Traverse Overall Supply Co	Greilickville	C
Gratiot County Landfill	St. Louis	S
H. Brown Co., Inc	Grand Rapids	
Hedblum Industries	Oscoda	
Hi-Mill Manufacturing Co	Highland	
Ionia City Landfill	Ionia	
J&L Landfill	Rochester Hills	
K&L Avenue Landfill	Oshtemo Township	
Kaydon Corp	Muskegon	
Kent City Mobile Home Park	Kent City	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Kentwood Landfill	Kentwood	
Kysor Industrial Corp	Cadillac	
Liquid Disposal, Inc	Utica	
Mason County Landfill	Pere Marquette Twp	
McGraw Edison Corp	Albion	
Metal Working Shop	Lake Ann	C
Metamora Landfill	Metamora	
Michigan Disposal Service (Cork Street Landfill)	Kalamazoo	
Motor Wheel, Inc	Lansing	
Muskegon Chemical Co	Whitehall	
North Bronson Industrial Area	Bronson	
Northernaire Plating	Cadillac	
Novaco Industries	Temperance	C
Organic Chemicals, Inc	Grandville	
Ossineke Ground Water Contamination	Ossineke	
Ott/Story/Cordova Chemical Co	Dalton Township	
Packaging Corp. of America	Filer City	
Parsons Chemical Works, Inc	Grand Ledge	
Peerless Plating Co	Muskegon	
Petoskey Municipal Well Field	Petoskey	
Rasmussen's Dump	Green Oak Township	
Rockwell International Corp. (Allegan Plant)	Allegan	
Rose Township Dump	Rose Township	
Roto-Finish Co., Inc	Kalamazoo	
SCA Independent Landfill	Muskegon Heights	
Shiawassee River	Howell	
South Macomb Disposal Authority (Landfills ;9 and ;9a)	Macomb Township	
Southwest Ottawa County Landfill	Park Township	
Sparta Landfill	Sparta Township	
Spartan Chemical Co	Wyoming	
Spiegelberg Landfill	Green Oak Township	
Springfield Township Dump	Davisburg	
State Disposal Landfill, Inc	Grand Rapids	
Sturgis Municipal Wells	Sturgis	
Tar Lake	Mancelona Township	
Thermo-Chem, Inc	Muskegon	
Torch Lake	Houghton County	
U.S. Aviex	Howard Township	
Velsicol Chemical Corp. (Michigan)	St. Louis	C
Verona Well Field	Battle Creek	
Wash King Laundry	Pleasant Plains Twp	
Waste Management of Michigan (Holland Lagoons)	Holland	
Minnesota:		
Adrian Municipal Well Field	Adrian	C
Agate Lake Scrapyard	Fairview Township	
Arrowhead Refinery Co	Hermantown	
Boise Cascade/Onan Corp./Medtronics, Inc	Fridley	C
Boise Cascade/Onan Corp./Medtronics, Inc	Fridley	C
Burlington Northern (Brainerd/Baxter Plant)	Brainerd/Baxter	
Dakhue Sanitary Landfill	Cannon Falls	
East Bethel Demolition Landfill	East Bethel Township	
FMC Corp. (Fridley Plant)	Fridley	C
Freeway Sanitary Landfill	Burnsville	
General Mills/Henkel Corp	Minneapolis	C
Joslyn Manufacturing & Supply Co	Brooklyn Center	
Koch Refining Co./N-Ren Corp	Pine Bend	
Koppers Coke	St. Paul	
Kummer Sanitary Landfill	Bemidji	
Kurt Manufacturing Co	Fridley	
LaGrand Sanitary Landfill	LaGrand Township	
Lehillier/Mankato Site	Lehillier/Mankato	C
Long Prairie Ground Water Contamination	Long Prairie	
MacGillis & Gibbs Co./Bell Lumber & Pole Co	New Brighton	
New Brighton/Arden Hills	New Brighton	
NL Industries/Taracorp/Golden Auto (once listed as National Lead Taracorp)	St Louis Park	
Nutting Truck & Caster Co	Faribault	C
Oak Grove Sanitary Landfill	Oak Grove Township	
Oakdale Dump	Oakdale	
Olmstead County Sanitary Landfill	Oronoco	
Perham Arsenic Site	Perham	
Pine Bend Sanitary Landfill (once listed as Pine Bend Sanitary Landfill/Crosby American Demolition Landfill).	Dakota County	
Reilly Tar & Chemical Corp. (St. Louis Park Plant)	St. Louis Park	S
Ritari Post & Pole	Sebeka	
South Andover Site (once listed as Andover Sites)	Andover	
St Augusta Sanitary Landfill/Engen Dump (once listed as St. Augusta Sanitary Landfill/St. Cloud Dump).	St. Augusta Township	
St. Louis River Site	St. Louis County	
St. Regis Paper Co	Cass Lake	
University of Minnesota (Rosemount Research Center)	Rosemount	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Waite Park Wells	Waite Park	
Washington County Landfill	Lake Elmo	C
Waste Disposal Engineering	Andover	
Whittaker Corp	Minneapolis	C
Windom Dump	Windom	C
Missouri:		
Bee Cee Manufacturing Co	Malden	
Big River Mine Tailings/St. Joe Minerals Corp	Desloge	
Conservation Chemical Co	Kansas City	C
Ellisville Site	Ellisville	S
Fulbright Landfill	Springfield	C
Kem-Pest Laboratories	Cape Girardeau	
Lee Chemical	Liberty	
Minker/Stout/Romaine Creek (once listed as Arena 2: Fills 1 & 2)	Imperial	
Missouri Electric Works	Cape Girardeau	
North-U Drive Well Contamination	Springfield	
Oronongo-Duenweg Mining Belt	Jasper County	
Quality Plating	Sikeston	
Shenandoah Stables (once listed as Arena 1: Shenandoah Stables)	Moscow Mills	
Solid State Circuits, Inc	Republic	
St. Louis Airport/Hazelwood Interim Storage/Futura Coatings Co	St. Louis County	
Syntex Facility	Verona	
Times Beach Site	Times Beach	
Valley Park TCE	Valley Park	
Westlake Landfill	Bridgeton	
Wheeling Disposal Service Co. Landfill	Amazonia	
Mississippi:		
Flowood Site	Flowood	S
Newsom Brothers/Old Reichhold Chemicals, Inc	Columbia	
Montana:		
Anaconda Co. Smelter	Anaconda	
East Helena Site (once listed as East Helena Smelter	East Helena	
Idaho Pole Co	Bozeman	
Libby Ground Water Contamination	Libby	
Milltown Reservoir Sediments	Milltown	
Montana Pole and Treating	Butte	
Mouat Industries	Columbus	
Silver Bow Creek/Butte Area (once listed as Silver Bow Creek)	Sil Bow/Deer Lodge	
North Carolina:		
ABC One Hour Cleaners	Jacksonville	
Aberdeen Pesticide Dumps	Aberdeen	
Benfield Industries, Inc	Hazelwood	
Bypass 601 Ground Water Contamination	Concord	
Cape Fear Wood Preserving	Fayetteville	
Carolina Transformer Co	Fayetteville	
Celanese Corp. (Shelby Fiber Operations)	Shelby	
Charles Macon Lagoon & Drum Storage	Cordova	
Chemtronics, Inc	Swannanoa	
FCX, Inc. (Statesville Plant)	Statesville	
FCX, Inc. (Washington Plant)	Washington	
Geigy Chemical Corp. (Aberdeen Plant)	Aberdeen	
Hevi-Duty Electric Co	Goldsboro	
Jadco-Hughes Facility	Belmont	
JFD Electronics/Channel Master	Oxford	
Koppers Co., Inc. (Morrisville Plant)	Morrisville	
Martin-Marietta, Sodyeco, Inc	Charlotte	
National Starch & Chemical Corp	Salisbury	
North Carolina State University (Lot 86, Farm Unit ;1)	Raleigh	
New Hanover County Airport Burn Pit	Wilmington	
Potter's Septic Tank Service Pits	Maco	
North Dakota:		
Arsenic Trioxide Site	Southeastern ND	C,S
Minot Landfill	Minot	
Nebraska:		
10th Street Site	Columbus	
Cleburn Street Well	Grand Island	
Hastings Ground Water Contamination	Hastings	
Lindsay Manufacturing Co	Lindsay	
Nebraska Ordnance Plant (Former)	Mead	
Sherwood Medical Co	Norfolk	
Waverly Ground Water Contamination	Waverly	
New Hampshire:		
Auburn Road Landfill	Londonderry	
Coakley Landfill	North Hampton	
Dover Municipal Landfill	Dover	
Fletcher's Paint Works & Storage	Milford	
Kearsarge Metallurgical Corp. (once listed as Kearsage Metallurgical Corp.)	Conway	
Keefe Environmental Services (once listed as KES)	Epping	
Mottolo Pig Farm	Raymond	
New Hampshire Plating Co	Merrimack	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Ottati & Gross/Kingston Steel Drum (once listed as Ottati & Gross)	Kingston	
Savage Municipal Water Supply	Milford	
Somersworth Sanitary Landfill	Somersworth	
South Municipal Water Supply Well	Peterborough	
Sylvester	Nashua	C,S
Tibbetts Road	Barrington	
Tinkham Garage	Londonderry	
Town Garage/Radio Beacon	Londonderry	C
New Jersey:		
A.O. Polymer	Sparta Township	
American Cyanamid Co	Bound Brook	
Asbestos Dump	Millington	
Bog Creek Farm	Howell Township	
Brick Township Landfill	Brick Township	
Bridgeport Rental & Oil Services	Bridgeport	
Brook Industrial Park	Bound Brook	
Burnt Fly Bog	Marlboro Township	
Caldwell Trucking Co	Fairfield	
Chemical Control	Elizabeth	
Chemical Insecticide Corp	Edison Township	
Chemical Leaman Tank Lines, Inc. (once listed as Chemical Leaman Tank Liners, Inc.)	Bridgeport	
Chemsol, Inc	Piscataway	
Ciba-Geigy Corp. (once listed as Toms River Chemical)	Toms River	
Cinnamonson Township (Block 702) Ground Water Contamination	Cinnamonson Township	
Combe Fill North Landfill	Mount Olive Township	
Combe Fill South Landfill	Chester Township	
Cosden Chemical Coatings Corp	Beverly	
CPS/Madison Industries	Old Bridge Township	
Curcio Scrap Metal, Inc	Saddle Brook Township	
D'Imperio Property	Hamilton Township	
Dayco Corp./L.E. Carpenter Co	Wharton Borough	
De Rewal Chemical Co	Kingwood Township	
Delilah Road	Egg Harbor Township	
Denzer & Schafer X-Ray Co	Bayville	
Diamond Alkali Co	Newark	
Dover Municipal Well #4	Dover Township	
Ellis Property	Evesham Township	
Evor Phillips Leasing	Old Bridge Township	
Ewan Property	Shamong Township	
Fair Lawn Well Field	Fair Lawn	
Florence Land Recontouring Landfill	Florence Township	
Fried Industries	East Brunswick Township	
Garden State Cleaners Co	Minotola	
GEMS Landfill	Gloucester Township	
Glen Ridge Radium Site	Glen Ridge	
Global Sanitary Landfill	Old Bridge Township	
Goose Farm	Plumstead Township	
Helen Kramer Landfill	Mantua Township	
Hercules, Inc. (Gibbstown Plant)	Gibbstown	
Higgins Disposal	Kingston	
Higgins Farm	Franklin Township	
Hopkins Farm	Plumstead Township	
Imperial Oil Co., Inc./Champion Chemicals	Morganville	
Industrial Latex Corp	Wallington Borough	
Jackson Township Landfill	Jackson Township	
JIS Landfill	Jamesburg/S. Brunswick	
Kauffman & Minteer, Inc	Jobstown	
Kin-Buc Landfill	Edison Township	
King of Prussia	Winslow Township	
Landfill & Development Co	Mount Holly	
Lang Property	Pemberton Township	
Lipari Landfill	Pitman	
Lodi Municipal Well	Lodi	
Lone Pine Landfill	Freehold Township	
Mannheim Avenue Dump	Galloway Township	
Maywood Chemical Co	Maywood/Rochelle Park	
Metaltec/Aerosystems	Franklin Borough	
Monitor Devices/Intercircuits Inc	Wall Township	
New Jersey:		
Monroe Township Landfill	Monroe Township	
Montclair/West Orange Radium Site	Montclair/W. Orange	
Montgomery Township Housing Development	Montgomery Township	
Myers Property	Franklin Township	
Nascolite Corp	Millville	
NL Industries	Pedricktown	
Pepe Field	Boonton	
Pijak Farm	Plumstead Township	
PJP Landfill	Jersey City	
Pohatcong Valley Ground Water Contamination	Warren County	
Pomona Oaks Residential Wells	Galloway Township	C

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Price Landfill	Pleasantville	S
Radiation Technology, Inc	Rockaway Township	
Reich Farms	Pleasant Plains	
Renora, Inc	Edison Township	
Ringwood Mines/Landfill	Ringwood Borough	
Rockaway Borough Well Field	Rockaway Township	
Rockaway Township Wells	Rockaway	
Rocky Hill Municipal Well	Rocky Hill Borough	
Roebling Steel Co	Florence	
Sayreville Landfill	Sayreville	
Scientific Chemical Processing	Carlstadt	
Sharkey Landfill	Parsippany/Troy Hills	
Shieldalloy Corp	Newfield Borough	
South Brunswick Landfill	South Brunswick	
South Jersey Clothing Co	Minotola	
Spence Farm	Plumstead Township	
Swope Oil & Chemical Co	Pennsauken	
Syncon Resins	South Kearney	
Tabernacle Drum Dump	Tabernacle Township	
U.S. Radium Corp	Orange	
Universal Oil Products (Chemical Division)	East Rutherford	
Upper Deerfield Township Sanitary Landfill	Upper Deerfield Township	
Ventron/Velsicol	Wood Ridge Borough	
Vineland Chemical Co., Inc	Vineland	
Vineland State School	Vineland	C
Waldick Aerospace Devices, Inc	Wall Township	
White Chemical Corp	Newark	H
Williams Property	Swainton	
Wilson Farm	Plumstead Township	
Witco Chemical Corp. (Oakland Plant)	Oakland	C
Woodland Route 532 Dump	Woodland Township	
Woodland Route 72 Dump	Woodland Township	
New Mexico:		
AT & SF (Clovis)	Clovis	
Cimarron Mining Corp	Carrizozo	C
Cleveland Mill	Silver City	
Homestake Mining Co	Milan	
Prewitt Abandoned Refinery	Prewitt	
South Valley	Albuquerque	S
United Nuclear Corp	Church Rock	
Nevada:		
Carson River Mercury Site	Lyon/Churchill County	
New York:		
Action Anodizing, Plating, & Polishing Corp	Copiague	C
American Thermostat Co	South Cairo	
Anchor Chemicals	Hicksville	
Applied Environmental Services	Glenwood Landing	
Batavia Landfill	Batavia	
BioClinical Laboratories, Inc	Bohemia	C
Brewster Well Field	Putnam County	
Byron Barrel & Drum	Byron	
C & J Disposal Leasing Co. Dump	Hamilton	
Carroll & Dubies Sewage Disposal	Port Jervis	
Circuitron Corp	East Farmingdale	
Claremont Polychemical	Old Bethpage	
Clothier Disposal	Town of Granby	
Colesville Municipal Landfill	Town of Colesville	
Conklin Dumps	Conklin	
Cortese Landfill	Village of Narrowsburg	
Endicott Village Well Field	Village of Endicott	
Facet Enterprises, Inc	Elmira	
FMC Corp. (Dublin Road Landfill)	Town of Shelby	
Forest Glen Mobile Home Subdivision	Niagara Falls	H
Fulton Terminals	Fulton	
GE Moreau	South Glen Falls	
General Motors (Central Foundry Division)	Massena	
Genzale Plating Co	Franklin Square	
Goldisc Recordings, Inc	Holbrook	
Haviland Complex	Town of Hyde Park	
Hertel Landfill	Plattekill	
Hooker (102nd Street)	Niagara Falls	
Hooker (Hyde Park)	Niagara Falls	
Hooker (S Area)	Niagara Falls	
Hooker Chemical/Ruco Polymer Corp	Hicksville	
Hudson River PCBs	Hudson River	
Islip Municipal Sanitary Landfill	Islip	
Johnstown City Landfill	Town of Johnstown	
Jones Chemicals, Inc	Caledonia	
Jones Sanitation	Hyde Park	
Katonah Municipal Well	Town of Bedford	C

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Kenmark Textile Corp	Farmingdale	
Kentucky Avenue Well Field	Horseheads	
Li Tungsten Corp	Glen Cove	
Liberty Industrial Finishing	Farmingdale	
Love Canal	Niagara Falls	
Ludlow Sand & Gravel	Clayville	
Malta Rocket Fuel Area	Malta	
Marathon Battery Corp	Cold Springs	
Mattiace Petrochemical Co., Inc	Glen Cove	
Mercury Refining, Inc	Colonie	
Nepera Chemical Co., Inc	Maybrook	
Niagara County Refuse	Wheatfield	
Niagara Mohawk Power Corp. (Saratoga Springs Plant)	Saratoga Springs	
North Sea Municipal Landfill	North Sea	
Old Bethpage Landfill	Oyster Bay	
Olean Well Field	Olean	
Pasley Solvents & Chemicals, Inc	Hempstead	
Pollution Abatement Services	Oswego	S
Port Washington Landfill	Port Washington	
Preferred Plating Corp	Farmingdale	
Radium Chemical Co., Inc	New York City	H
Ramapo Landfill	Ramapo	
Richardson Hill Road Landfill/Pond	Sidney Center	
Robintech, Inc./National Pipe Co	Town of Vestal	
Rosen Brothers Scrap Yard/Dump	Cortland	
Rowe Industries Ground Water Contamination	Noyack/Sag Harbor	
Sarney Farm	Amenia	
Sealand Restoration, Inc	Lisbon	
Sidney Landfill	Sidney	
Sinclair Refinery	Wellsville	
SMS Instruments, Inc	Deer Park	
Solvent Savers	Lincklaen	
Suffern Village Well Field	Village of Suffern	C
Syosset Landfill	Oyster Bay	
Tri-Cities Barrel Co., Inc	Port Crane	
Tronic Plating Co., Inc	Farmingdale	
Vestal Water Supply Well 1-1 (once listed with Well 4-2 as one site)	Vestal	
Vestal Water Supply Well 4-2 (once listed with Well 1-1 as one site)	Vestal	
Volney Municipal Landfill	Town of Volney	
Warwick Landfill	Warwick	
Wide Beach Development	Brant	C
York Oil Co	Moira	
Ohio:		
Allied Chemical & Ironton Coke	Ironton	
Alsco Anaconda	Gnadenhutten	
Arcanum Iron & Metal	Darke County	
Big D Campground	Kingsville	
Bowers Landfill	Circleville	
Buckeye Reclamation	St. Clairsville	
Chem-Dyne	Hamilton	C,S
Coshocton Landfill	Franklin Township	
E.H. Schilling Landfill	Hamilton Township	
Fields Brook	Ashtabula	
Fultz Landfill	Jackson Township	
Industrial Excess Landfill	Uniontown	
Laskin/Poplar Oil Co. (once listed as Poplar Oil Co.)	Jefferson Township	
Miami County Incinerator	Troy	
Nease Chemical	Salem	
New Lyme Landfill	New Lyme	
Old Mill (once listed as Rock Creek/Jack Webb)	Rock Creek	C
Ormet Corp	Hannibal	
Powell Road Landfill	Dayton	
Pristine, Inc	Reading	
Reilly Tar & Chemical Corp. (Dover Plant)	Dover	
Republic Steel Corp. Quarry	Elyria	
Sanitary Landfill Co. (Industrial Waste Disposal Co., Inc.)	Dayton	
Skinner Landfill	West Chester	
South Point Plant	South Point	
Summit National	Deerfield Township	
TRW, Inc. (Minerva Plant)	Minerva	
United Scrap Lead Co., Inc	Troy	
Van Dale Junkyard	Marietta	
Zanesville Well Field	Zanesville	
Oklahoma:		
Compass Industries (Avery Drive) (once listed as Compass Industries)	Tulsa	C
Double Eagle Refinery Co	Oklahoma City	
Fourth Street Abandoned Refinery	Oklahoma City	
Hardage/Criner (once listed as Criner/Hardage Waste Disposal)	Criner	
Mosley Road Sanitary Landfill	Oklahoma City	
Oklahoma Refining Co	Cyril	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Sand Springs Petrochemical Complex	Sand Springs	
Tar Creek (Ottawa County)	Ottawa County	
Tenth Street Dump/Junkyard	Oklahoma City	
Oregon:		
Allied Plating, Inc	Portland	
Gould, Inc	Portland	
Joseph Forest Products	Joseph	
Martin-Marietta Aluminum Co	The Dalles	
Northwest Pipe & Casing Co	Clackamas	
Teledyne Wah Chang	Albany	
Union Pacific Railroad Co. Tie Treating Plant	The Dalles	
United Chrome Products, Inc	Corvallis	C
Pennsylvania:		
A.I.W. Frank/Mid-County Mustang	Exton	
Aladdin Plating	Scott Township	
Ambler Asbestos Piles	Ambler	
AMP, Inc. (Glen Rock Facility	Glen Rock	
Austin Avenue Radiation Site	Delaware County	H
Avco Lycoming (Williamsport Division)	Williamsport	
Bally Ground Water Contamination	Bally Borough	
Bell Landfill	Terry Township	
Bendix Flight Systems Division	Bridgewater Township	
Berkley Products Co. Dump	Denver	
Berks Landfill	Spring Township	
Berks Sand Pit	Longswamp Township	
Blosenski Landfill	West Caln Township	
Boarhead Farms	Bridgeton Township	
Brodhead Creek	Stroudsburg	
Brown's Battery Breaking	Shoemakersville	
Bruin Lagoon	Bruin Borough	C
Butler Mine Tunnel	Pittston	
Butz Landfill	Stroudsburg	
C & D Recycling	Foster Township	
Centre County Kepone	State College Borough	
Commodore Semiconductor Group	Lower Providence Township	
Craig Farm Drum	Parker	
Crater Resources, Inc./Keystone Coke Co./Alan Wood Steel Co	Upper Merion Twp	
Crossley Farm	Hereford Township	
Croydon TCE	Croydon	
Cryochem, Inc	Worman	
Delta Quarries & Disposal, Inc./Stotler Landfill	Antis/Logan Townships	
Dorney Road Landfill	Upper Macungie Township	
Douglassville Disposal	Douglassville	
Drake Chemical	Lock Haven	
Dublin TCE Site	Dublin Borough	
East Mount Zion	Springettsbury Township	
Eastern Diversified Metals	Hometown	
Elizabethtown Landfill	Elizabethtown	
Fischer & Porter Co	Warminster	
Havertown PCP	Haverford	
Hebelka Auto Salvage Yard	Weisenberg Township	
Heleva Landfill	North Whitehall Township	
Hellertown Manufacturing Co	Hellertown	
Henderson Road	Upper Merion Township	
Hranica Landfill	Buffalo Township	
Hunterstown Road	Straban Township	
Industrial Lane	Williams Township	
Jacks Creek/Sitkin Smelting & Refining, Inc	Maitland	
Keystone Sanitation Landfill	Union Township	
Kimberton Site	Kimberton Borough	
Lackawanna Refuse	Old Forge Borough	
Lindane Dump	Harrison Township	
Lord-Shope Landfill	Girard Township	
Malvern TCE	Malvern	
McAdoo Associates	McAdoo Borough	S
Metal Banks	Philadelphia	
Metropolitan Mirror and Glass Co., Inc	Frackville	
Middletown Air Field	Middletown	
Mill Creek Dump	Erie	
Modern Sanitation Landfill	Lower Windsor Township	
Moyers Landfill	Eagleville	
MW Manufacturing (once listed as Domino Salvage Yard)	Valley Township	
North Penn—Area 1 (once listed as Gentle Cleaners, Inc./Souderton Granite Knitting Mills, Inc.)	Souderton	
North Penn—Area 12 (once listed as Transicoil, Inc.)	Worcester	
North Penn—Area 2 (once listed as Ametek, Inc. (Hunter Hatfield Spring Division))	Hatfield	
North Penn—Area 5 (once listed as American Electronics Laboratories)	Montgomery Township	
North Penn—Area 6 (once listed as J.W. Rex Co./Allied Paint Manufacturing Co., Inc./Keystone Hydraulics)	Lansdale	
North Penn—Area 7 (once listed as Spra-Fin, Inc.)	North Wales	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Novak Sanitary Landfill	South Whitehall Township	
Occidental Chemical Corp./Firestone Tire & Rubber Co	Lower Pottsgrove Township	
Ohio River Park	Neville Island	
Old City of York Landfill	Seven Valleys	
Osborne Landfill	Grove City	
Palmerton Zinc Pile	Palmerton	
Paoli Rail Yard	Paoli	
Publicker Industries Inc	Philadelphia	
Raymark	Hatboro	
Recticon/Allied Steel Corp	East Coventry Township	
Resin Disposal	Jefferson Borough	
Revere Chemical Co	Nockamixon Township	
River Road Landfill (Waste Management, Inc.)	Hermitage	
Rodale Manufacturing Co., Inc	Emmaus Borough	
Route 940 Drum Dump (once listed as Pocono Summit)	Pocono Summit	C
Saegertown Industrial Area	Saegertown	
Shriver's Corner	Straban Township	
Stanley Kessler	King of Prussia	
Strasburg Landfill	Newlin Township	
Taylor Borough Dump	Taylor Borough	C
Tonolli Corp	Nesquehoning	
Tysons Dump	Upper Merion Township	
Walsh Landfill	Honeybrook Township	
Westinghouse Electric Corp. (Sharon Plant)	Sharon	
Westinghouse Elevator Co. Plant	Gettysburg	
Whitmoyer Laboratories	Jackson Township	
William Dick Lagoons	West Caln Township	
York County Solid Waste and Refuse Authority Landfill	Hopewell Township	
Puerto Rico:		
Barceloneta Landfill	Florida Afuera	
Fibers Public Supply Wells	Jobos	
Frontera Creek	Rio Abajo	
GE Wiring Devices	Juana Diaz	
Juncos Landfill	Juncos	
RCA Del Caribe	Barceloneta	
Upjohn Facility	Barceloneta	
Vega Alta Public Supply Wells	Vega Alta	
Rhode Island:		
Central Landfill	Johnston	
Davis (GSR) Landfill	Glocester	
Davis Liquid Waste	Smithfield	
Landfill & Resource Recovery, Inc. (L&RR)	North Smithfield	
Peterson/Puritan, Inc	Lincoln/Cumberland	
Picillo Farm	Coventry	S
Rose Hill Regional Landfill	South Kingston	
Stamina Mills, Inc. (once listed as Foresidale-Stamina Mills, Inc.)	North Smithfield	
West Kingston Town Dump/URI Disposal Area	South Kingstown	
Western Sand & Gravel	Burrillville	
South Carolina:		
Beaunit Corp. (Circular Knit & Dyeing Plant)	Fountain Inn	
Carolawn, Inc	Fort Lawn	
Elmore Waste Disposal	Greer	
Geiger (C & M Oil)	Rantoules	
Golden Strip Septic Tank Service	Simpsonville	
Helena Chemical Co. Landfill	Fairfax	
Independent Nail Co	Beaufort	C
Kalama Specialty Chemicals	Beaufort	
Koppers Co., Inc. (Florence Plant)	Florence	
Leonard Chemical Co., Inc	Rock Hill	
Lexington County Landfill Area	Cayce	
Medley Farm Drum Dump	Gaffney	
Palmetto Recycling, Inc	Columbia	
Palmetto Wood Preserving	Dixiana	
Para-Chem Southern, Inc	Simpsonville	
Rochester Property	Travelers Rest	
Rock Hill Chemical Co	Rock Hill	
Sangamo Weston, Inc./Twelve-Mile Creek/Lake Hartwell PCB Contamination	Pickens	
SCRDI Bluff Road	Columbia	S
SCRDI Dixiana	Cayce	C
Townsend Saw Chain Co	Pontiac	
Wamchem, Inc	Burton	
South Dakota:		
Whitewood Creek	Whitewood	C,S
Williams Pipe Line Co. Disposal Pit	Sioux Falls	
Tennessee:		
American Creosote Works, Inc. (Jackson Plant) (once listed as American Creosote Works).	Jackson	
Amnicola Dump	Chattanooga	
Arlington Blending & Packaging	Arlington	
Carrier Air Conditioning Co	Collierville	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Gallaway Pits	Gallaway	
Lewisburg Dump	Lewisburg	
Mallory Capacitor Co	Waynesboro	
Murray-Ohio Dump	Lawrenceburg	
North Hollywood Dump	Memphis	S
Velsicol Chemical Corp. (Hardeman County)	Toone	
Wrigley Charcoal Plant	Wrigley	
Texas:		
Bailey Waste Disposal	Bridge City	
Bio-Ecology Systems, Inc	Grand Prairie	
Brio Refining, Inc	Friendswood	
Crystal Chemical Co	Houston	
Crystal City Airport	Crystal City	C
Dixie Oil Processors, Inc	Friendswood	
French, Ltd	Crosby	
Geneva Industries/Fuhrmann Energy	Houston	
Highlands Acid Pit	Highlands	C
Koppers Co., Inc. (Texarkana Plant)	Texarkana	
Motco, Inc	La Marque	S
North Cavalcade Street	Houston	
Odessa Chromium #1	Odessa	
Odessa Chromium #2 (Andrews Highway)	Odessa	
Pesses Chemical Co	Fort Worth	C
Petro-Chemical Systems, Inc. (Turtle Bayou)	Liberty County	
Sheridan Disposal Services	Hempstead	
Sikes Disposal Pits	Crosby	
Sol Lynn/Industrial Transformers	Houston	
South Cavalcade Street	Houston	
Stewco, Inc	Waskom	C
Tex-Tin Corp	Texas City	
Texarkana Wood Preserving Co	Texarkana	
Triangle Chemical Co	Bridge City	C
United Creosoting Co	Conroe	
Utah:		
Midvale Slag	Midvale	
Monticello Radioactively Contaminated Properties	Monticello	
Petrochem Recycling Corp./Ekotek, Inc	Salt Lake City	
Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	
Rose Park Sludge Pit	Salt Lake City	C,S
Sharon Steel Corp. (Midvale Tailings) (once listed as Sharon Steel Corp. (Midvale Plant)).	Midvale	
Utah Power & Light/American Barrel Co	Salt Lake City	
Wasatch Chemical Co. (Lot 6)	Salt Lake City	
Virginia:		
Abex Corp	Portsmouth	
Arrowhead Associates/Scovill Corp	Montross	
Atlantic Wood Industries, Inc	Portsmouth	
Avtex Fibers, Inc	Front Royal	
Buckingham County Landfill (once listed as Love's Container Service Landfill)	Buckingham	
C & R Battery Co., Inc	Chesterfield County	
Chisman Creek	York County	C
Culpeper Wood Preservers, Inc	Culpeper	
Dixie Caverns County Landfill	Salem	
First Piedmont Corp. Rock Quarry (Route 719) (once listed as First Piedmont Corp. Rock Quarry).	Pittsylvania County	
Greenwood Chemical Co	Newtown	
H & H Inc., Burn Pit	Farrington	
L.A. Clarke & Son	Spotsylvania County	
Rentokil, Inc. (Virginia Wood Preserving Division)	Richmond	
Rhinehart Tire Fire Dump	Frederick County	
Saltville Waste Disposal Ponds	Saltville	
Saunders Supply Co	Chuckatuck	
Suffolk City Landfill	Suffolk	C
U.S. Titanium	Piney River	
Vermont:		
Bennington Municipal Sanitary Landfill	Bennington	
BFI Sanitary Landfill (Rockingham)	Rockingham	
Burgess Brothers Landfill	Woodford	
Darling Hill Dump	Lyndon	C
Old Springfield Landfill	Springfield	
Parker Sanitary Landfill	Lyndon	
Pine Street Canal	Burlington	S
Tansitor Electronics, Inc	Bennington	
Washington:		
ALCOA (Vancouver Smelter)	Vancouver	
American Crossarm & Conduit Co	Chehalis	
American Lake Gardens	Tacoma	
Centralia Municipal Landfill	Centralia	
Colbert Landfill	Colbert	
Commencement Bay, Near Shore/Tide Flats	Pierce County	

TABLE 1.—GENERAL SUPERFUND SECTION, OCTOBER 1992—Continued

State and site name	City/county	Notes
Commencement Bay, South Tacoma Channel	Tacoma	
FMC Corp. (Yakima Pit)	Yakima	
Frontier Hard Chrome, Inc	Vancouver	
General Electric Co. (Spokane Shop)	Spokane	
Greenacres Landfill	Spokane County	
Harbor Island (Lead)	Seattle	
Hidden Valley Landfill (Thun Field)	Pierce County	
Kaiser Aluminum Mead Works	Mead	
Lakewood Site	Lakewood	C
Mica Landfill	Mica	
Midway Landfill	Kent	
Moses Lake Wellfield Contamination	Moses Lake	
North Market Street (once listed as Tosco Corp. (Spokane Terminal))	Spokane	
Northside Landfill	Spokane	
Northwest Transformer	Everson	
Northwest Transformer (South Harkness Street)	Everson	
Old Inland Pit	Spokane	
Pacific Car & Foundry Co	Renton	
Pasco Sanitary Landfill	Pasco	
Pesticide Lab (Yakima)	Yakima	C
Queen City Farms	Maple Valley	
Seattle Municipal Landfill (Kent Highlands)	Kent	
Silver Mountain Mine	Loomis	C
Vancouver Water Station #4 Contamination	Vancouver	
Western Processing Co., Inc	Kent	C
Wyckoff Co./Eagle Harbor	Bainbridge Island	
Yakima Plating Co	Yakima	C
Wisconsin:		
Algoma Municipal Landfill	Algoma	
Better Brite Plating Co. Chrome & Zinc Shops	DePere	
City Disposal Corp. Landfill	Dunn	
Delavan Municipal Well #4	Delavan	
Eau Claire Municipal Well Field	Eau Claire	C
Fadrowski Drum Disposal	Franklin	
Hagen Farm	Stoughton	
Hechimovich Sanitary Landfill	Williamstown	
Hunts Disposal Landfill	Caledonia	
Janesville Ash Beds	Janesville	
Janesville Old Landfill	Janesville	
Kohler Co. Landfill	Kohler	
Lauer I Sanitary Landfill	Menomonee Falls	
Lemberger Landfill, Inc. (once listed as Lemberger Fly Ash Landfill)	Whitelaw	
Lemberger Transport & Recycling	Franklin Township	
Madison Metropolitan Sewerage District Lagoons	Blooming Grove	
Master Disposal Service Landfill	Brookfield	
Mid-State Disposal, Inc. Landfill	Cleveland Township	
Moss-American (Kerr-McGee Oil Co.)	Milwaukee	
Muskego Sanitary Landfill	Muskego	
N.W. Mauthe Co., Inc	Appleton	S
National Presto Industries, Inc	Eau Claire	
Northern Engraving Co	Sparta	C
Oconomowoc Electroplating Co. Inc	Ashippin	
Omega Hills North Landfill	Germantown	
Onalaska Municipal Landfill	Onalaska	
Refuse Hideaway Landfill	Middleton	
Sauk County Landfill	Excelsior	
Schmalz Dump	Harrison	
Scrap Processing Co., Inc	Medford	
Sheboygan Harbor & River	Sheboygan	
Spickler Landfill	Spencer	
Stoughton City Landfill	Stoughton	
Tomah Armory	Tomah	
Tomah Fairgrounds	Tomah	
Tomah Municipal Sanitary Landfill	Tomah	
Waste Management of Wisconsin, Inc. (Brookfield Sanitary Landfill)	Brookfield	
Waste Research & Reclamation Co	Eau Claire	
Wausau Ground Water Contamination	Wausau	
Wheeler Pit	Le Prairie Township	
West Virginia:		
Fike Chemical, Inc	Nitro	
Follansbee Site	Follansbee	
Leetown Pesticide	Leetown	C
Ordnance Works Disposal Areas	Morgantown	
West Virginia Ordnance	Point Pleasant	S
Wyoming:		
Baxter/Union Pacific Tie Treating	Laramie	
Mystery Bridge Road/U.S. Highway 20	Evansville	

Note: 1,085 Total Sites.
C=Construction Completion category.
H=Based on issuance of health advisory (if scored, HRS score need not be 28.50 or greater).
S=State top priority (if scored, HRS score need not be 28.50 or greater).

TABLE 2—FEDERAL FACILITIES SECTION, OCTOBER 1992

State and Site Name	City/County	Notes
Alaska:		
Eielson Air Force Base	Fairbanks N Star Borough	
Elmendorf Air Force Base	Greater Anchorage Borough	
Fort Wainwright	Fairbanks N Star Borough	
Standard Steel & Metals Salvage Yard (USDOT)	Anchorage	
Alabama:		
Alabama Army Ammunition Plant	Childersburg	
Anniston Army Depot (Southeast Industrial Area)	Anniston	
Arizona:		
Luke Air Force Base	Glendale	
Williams Air Force Base	Chandler	
Yuma Marine Corps Air Station	Yuma	
California:		
Barstow Marine Corps Logistics Base	Barstow	
Camp Pendleton Marine Corps Base	San Diego County	
Castle Air Force Base	Merced	
Edwards Air Force Base	Kern County	
El Toro Marine Corps Air Station	El Toro	
Fort Ord	Marina	
George Air Force Base	Victorville	
Jet Propulsion Laboratory (NASA)	Pasadena	
Lawrence Livermore National Laboratory (USDOE)	Livermore	
Lawrence Livermore National Laboratory (Site 300) (USDOE)	Livermore	
March Air Force Base	Riverside	
Mather Air Force Base (once listed as Mather Air Force Base (AC&W Disposal Site))	Sacramento	
McClellan Air Force Base (Ground Water Contamination)	Sacramento	
Moffett Naval Air Station	Sunnyvale	
Norton Air Force Base	San Bernardino	
Riverbank Army Ammunition Plant	Riverbank	
Sacramento Army Depot	Sacramento	
Sharpe Army Depot	Lathrop	
Tracy Defense Depot	Tracy	
Travis Air Force Base	Solano County	
Treasure Island Naval Station—Hunters Point Annex	San Francisco	
Colorado:		
Air Force Plant PJKS	Waterton	
Rocky Flats Plant (USDOE)	Golden	
Rocky Mountain Arsenal	Adams County	
Connecticut: New London Submarine Base	New London	
Delaware: Dover Air Force Base	Dover	
Florida:		
Cecil Field Naval Air Station	Jacksonville	
Homestead Air Force Base	Homestead	
Jacksonville Naval Air Station	Jacksonville	
Pensacola Naval Air Station	Pensacola	
Georgia:		
Marine Corps Logistics Base	Albany	
Robins Air Force Base (Landfill #4/Sludge Lagoon) (once listed as Robins Air Force Base).	Houston County	
Guam: Andersen Air Force Base	Yigo	
Hawaii:		
Pearl Harbor Naval Complex	Pearl Harbor	
Schofield Barracks	Oahu	
Iowa: Iowa Army Ammunition Plant	Middletown	
Idaho:		
Idaho National Engineering Laboratory (USDOE)	Idaho Falls	
Mountain Home Air Force Base	Mountain Home	
Illinois:		
Joliet Army Ammunition Plant (Load-Assembly-Packing Area)	Joliet	
Joliet Army Ammunition Plant (Manufacturing Area)	Joliet	
Sangamo Electric Dump/Crab Orchard National Wildlife Refuge (USDOI)	Carterville	
Savanna Army Depot Activity	Savanna	
Kansas: Fort Riley	Junction City	
Louisiana: Louisiana Army Ammunition Plant	Doyline	
Massachusetts:		
Fort Devens	Fort Devens	
Fort Devens—Sudbury Training Annex	Middlesex County	
Otis Air National Guard Base/Camp Edwards	Falmouth	
Maryland:		
Aberdeen Proving Ground (Edgewood Area)	Edgewood	
Aberdeen Proving Ground (Michaelsville Landfill)	Aberdeen	
Maine:		
Brunswick Naval Air Station	Brunswick	
Loring Air Force Base	Limestone	
Minnesota:		
Naval Industrial Reserve Ordnance Plant	Fridley	
Twin Cities Air Force Reserve Base (Small Arms Range Landfill)	Minneapolis	

TABLE 2—FEDERAL FACILITIES SECTION, OCTOBER 1992—Continued

State and Site Name	City/County	Notes
Missouri:		
Lake City Army Ammunition Plant (Northwest Lagoon)	Independence	
Weldon Spring Quarry/Plant/Pits (USDOE/Army) (once listed as Weldon Spring Quarry (USDOE/Army)).	St. Charles County	
Weldon Spring Former Army Ordnance Works	St Charles County	
North Carolina: Camp Lejeune Military Reservation (once listed as Camp Lejeune Marine Corps Base).	Onslow County	
Nebraska: Cornhusker Army Ammunition Plant	Hall County	
New Hampshire: Pease Air Force Base	Portsmouth/Newington	
New Jersey:		
Federal Aviation Administration Technical Center	Atlantic County	
Fort Dix (Landfill Site)	Pemberton Township	
Naval Air Engineering Center	Lakehurst	
Naval Weapons Station Earle (Site A)	Colts Neck	
Piscatinny Arsenal	Rockaway Township	
W.R. Grace & Co., Inc./Wayne Interim Storage Site (USDOE) (once listed as W.R. Grace & Co., Inc. (Wayne Plant)).	Wayne Township	
New Mexico:		
Cal West Metals (USSBA)	Lemitar	
Lee Acres Landfill (USDOI)	Farmington	
New York:		
Brookhaven National Laboratory (USDOE)	Upton	
Griffiss Air Force Base	Rome	
Plattsburgh Air Force Base	Plattsburgh	
Seneca Army Depot	Romulus	
Ohio:		
Feed Materials Production Center (USDOE)	Fernald	
Mound Plant (USDOE)	Miamisburg	
Wright-Patterson Air Force Base	Dayton	
Oklahoma: Tinker Air Force Base (Soldier Creek/Building 3001)	Oklahoma City	
Oregon: Umatilla Army Depot (Lagoons)	Hermiston	
Pennsylvania:		
Letterkenny Army Depot (Property Disposal Office Area)	Franklin County	
Letterkenny Army Depot (Southeast Area)	Chambersburg	
Naval Air Development Center (8 Waste Areas)	Warminster Township	
Tobyhanna Army Depot	Tobyhanna	
Puerto Rico: Naval Security Group Activity	Sabana Seca	
Rhode Island:		
Davisville Naval Construction Battalion Center	North Kingston	
Newport Naval Education & Training Center	Newport	
South Carolina: Savannah River Site (USDOE)	Aiken	
South Dakota: Ellsworth Air Force Base	Rapid City	
Tennessee:		
Memphis Defense Depot	Memphis	
Milan Army Ammunition Plant	Milan	
Oak Ridge Reservation (USDOE)	Oak Ridge	
Texas:		
Air Force Plant #4 (General Dynamics)	Fort Worth	
Lone Star Army Ammunition Plant	Texarkana	
Longhorn Army Ammunition Plant	Karnack	
Utah:		
Hill Air Force Base	Ogden	
Monticello Mill Tailings (USDOE)	Monticello	
Ogden Defense Depot	Ogden	
Tooele Army Depot (North Area)	Tooele	
Virginia:		
Defense General Supply Center	Chesterfield County	
Naval Surface Warfare Center—Dahlgren	Dahlgren	
Naval Weapons Station—Yorktown	Yorktown	
Washington:		
Bangor Naval Submarine Base	Silverdale	
Bangor Ordnance Disposal	Bremerton	
Bonneville Power Administration Ross Complex (USDOE)	Vancouver	
Fairchild Air Force Base (4 Waste Areas)	Spokane County	
Fort Lewis (Landfill No. 5)	Tacoma	
Fort Lewis Logistics Center	Tillicum	
Hamilton Island Landfill (USA/COE)	North Bonneville	
Hanford 100-Area (USDOE)	Benton County	
Hanford 1100-Area (USDOE)	Benton County	
Hanford 200-Area (USDOE)	Benton County	
Hanford 300-Area (USDOE)	Benton County	
McChord Air Force Base (Wash Rack/Treatment Area)	Tocoma	
Naval Air Station, Whidbey Island (Ault Field)	Whidbey Island	
Naval Air Station, Whidbey Island (Seaplane Base)	Whidbey Island	
Naval Undersea Warfare Engineering Station (4 Waste Areas)	Keyport	
Wyoming: F.E. Warren Air Force Base	Cheyenne	

Note: 123 Total Sites.

C = Completion category.
H = Based on issuance of health advisory (if scored, HRS score need not be 28.50 or greater).
S = State top priority (if scored, HRS score need not be 28.50 or greater).

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BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-4521-2]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 13

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

The Environmental Protection Agency ("EPA") proposes to add new sites to the NPL. This 13th proposed revision to the NPL includes eight sites in the General Superfund Section and one in the Federal Facilities Section. In addition, one final site is proposed for expansion. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This action and a final rule published elsewhere in this Federal Register result in an NPL of 1,208 sites, 1,085 of them in the General Superfund Section and 123 in the Federal Facilities Section. An additional 28 sites are proposed, 25 in the General Superfund Section and 3 in the Federal Facilities Section. Final and proposed sites now total 1,236.

DATES: Comments on the expansion of the Austin Avenue Radiation Site in Delaware County, PA, must be submitted on or before November 13, 1992. Comments on all other sites must be submitted on or before December 14, 1992.

ADDRESSES: Mail original and three copies of comments (no facsimiles) to Docket Coordinator, Headquarters; U.S. EPA CERCLA Docket Office; OS-245; Waterside Mall; 401 M Street SW.; Washington, DC 20460; 202/260-3046. For additional Docket addresses and further details on their contents, see Section I of the "Supplementary Information" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Martha Otto, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS-5204G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the Superfund Hotline, Phone (800) 424-9346 or (703) 920-9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Purpose and Implementation of the NPL.
III. Contents of This Proposed Rule.
IV. Regulatory Impact Analysis.
V. Regulatory Flexibility Act Analysis.

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which is Appendix A of 40 CFR Part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each state representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA promulgates a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 25, 1991 (56 FR 48438).

The NPL includes two sections, one of sites evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining if the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 44 sites from the General Superfund Section of the NPL, most recently 4 sites published elsewhere in this Federal Register.

EPA is developing the NPL completions list to better show the successful completion of Superfund response action at present or former NPL sites and enhance public understanding of the status of cleanup progress at sites. Sites are organized into three categories: construction completion, site completion, and NPL deletion. A site will move over time from completion of physical construction (construction completion) to achievement of remedial action objectives specified in the ROD (site completion) to deletion (being formally removed from the NPL). Thus, the NPL completions list provides a "snapshot" of site cleanup status that will need to be periodically updated to reflect newly categorized sites, and sites moving from one category to the next. More details on the completions list will be published shortly in the Federal Register.

In addition to the 44 RM 10/9/92 sites that have been deleted from the NPL, 105 sites are in the construction or site completion categories, all but one from the General Superfund Section. Thus, as of September 30, 1992, a total of 149 NPL sites have been cleaned up.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of August 31, 1992, EPA had conducted 2,349 removal actions, 557 of them at NPL sites. Information on removals is available from the Superfund hotline.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 9 sites to the NPL. In addition, EPA is proposing to expand one site to include additional contaminated areas. The General Superfund Section includes 1,085 sites, and the Federal Facilities Section includes 123 sites, for a total of 1,208 sites on the NPL. Final and proposed sites now total 1,236.

Public Comment Period

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS-245, Waterside Mall, 401 M Street, SW., Washington, DC 20460, 202/260-3046.

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203-2211, 617/573-5729.

Ben Conetta, Region 2, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, 212/264-6696.

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Lisa Nelson, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744-2347.

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW-114, Seattle, WA 98101, 206/553-2103.

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the Headquarters or appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an "as received" basis.

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 849 F. 2d 1516 (D.C. Cir. 1988). After considering the relevant comments received during the comment period, EPA will add sites to the NPL if they meet requirements set out in CERCLA, the NCP, and any applicable listing policies.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently 57 FR 4824 (February 7, 1992)). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

Implementation

After initial discovery of a site at which a release or threatened release may exist, EPA begins a series of increasingly complex evaluations. The first step, the Preliminary Assessment (PA), is a low-cost review of existing information to determine if the site poses a threat to public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA will generally perform a more extensive study called the Site Inspection (SI). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites which warrant placement on the NPL and further study. EPA may reform removal actions at any time during the process. To date EPA has completed approximately 33,000 PAs and approximately 16,000 SIs.

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.415(b)(2) (55 FR 8842, March 8, 1990). EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, proceed directly with Trust Fund-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although the ranking of sites by HRS scores is considered, it does not, by itself, determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to determine either the extent of contamination or the appropriate response for a particular site (40 CFR 300.425(a)(2), 55 FR 8845, March 8, 1990). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways; only those presenting significant risk or sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway.

More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study (RI/FS) that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990)). It takes into account the amount of contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 (55 FR 8842, March 8, 1990) and 40 CFR 300.430 (55 FR 8846, March 8, 1990). After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Trust Fund-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substances

has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge of the geographic extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability or define the geographic extent of a release, a listing need not be amended if further research into the contamination at a site reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

III. Contents of This Proposed Rule

Table 1 identifies the 8 NPL sites in the General Superfund Section and Table 2 identifies the 1 NPL site in the Federal Facilities Section being proposed in this rule. Both tables follow this preamble. All these sites are proposed based on HRS scores of 28.50 or above. The sites in Table 1 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the General Superfund Section of the NPL. Sites in the Federal Facilities Section are also presented by group number based on groups of 50 sites in the General Superfund Section. For further information, see the discussion on format of the NPL in the final rule published elsewhere in this Federal Register.

Statutory Requirements

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this proposed rule cover sites subject to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901–6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

EPA's policy is that sites in the General Superfund Section subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to Subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in the past (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add two sites to the General Superfund Section of the NPL that may be subject to RCRA Subtitle C corrective action authorities. One is the Spectron, Inc. site in Elkton, MD. Material has been placed in the public docket for the site confirming that the owner is bankrupt.

The second is the Rinchem, Co., Inc. site in Albuquerque, NM. Material has been placed in the document indicating it will be difficult to address this facility under RCRA corrective action authorities.

Releases from Federal Facility Sites

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA Subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

This rule proposes to add one site to the Federal Facilities Section of the NPL.

Expansion of the Austin Avenue Radiation Site

The Austin Avenue Radiation site, Delaware County Pennsylvania, was proposed to the NPL on February 7, 1992 (57 FR 4824). At that time, specific areas were identified and enumerated as part of the site. EPA has identified additional contaminated areas not included in the original proposal. EPA is proposing at this time to include these additional contaminated areas and is listing these areas in the public docket for this rule. EPA will consider comments only on these additional areas, not on the areas previously identified, for which the comment period has ended.

IV. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites to the NPL. EPA believes that the kinds of economic effects associated with this proposed revision to the NPL are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

This proposed rulemaking is not a "major" regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine any party's liability for site response costs. Costs that arise out of responses at sites in the General Superfund Section result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs that may be associated with responding to all sites in this rule. The proposed listing of a site on the NPL may be followed by a search for potentially responsible parties and a Remedial Investigation/Feasibility Study (RI/FS) to determine if remedial actions will be undertaken at a site. Selection of a remedial alternative, and design and construction of that alternative, follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial

design and remedial action, and O&M, or EPA and the States may share costs up front and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Trust Fund-financed actions is governed by CERCLA section 104(c). For privately-owned sites, as well as publicly-owned but not publicly-operated sites, EPA will pay from the Trust Fund for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For sites operated by a State or political subdivision, the State's share is at least 50% of all response costs at the site, including the cost associated with the RI/FS, remedial design, and construction and implementation of the remedial action selected. After construction of the remedy is complete, costs fall into two categories.

- For restoration of ground water and surface water, EPA will pay from the Trust Fund a share of the start-up costs according to the cost-allocation criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3). After that, the State assumes all O&M costs. 40 CFR 300.435(f)(1).
- For other cleanups, EPA will pay from the Trust Fund a share of the costs of a remedy according to the cost-allocation criteria in the previous paragraph until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site[1]
RI/FS	1,300,000
Remedial Design	1,500,000
Remedial Action	[2] 25,000,000
Net present value of O&M [3]	[2] 3,770,000

[1] 1988 U.S. Dollars.
[2] Includes State cost-share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Possible costs to States associated with today's proposed rule for Trust Fund-financed response action arise from the required State cost-share of: (1) for privately owned sites at which remedial action involving treatment to restore ground and surface water quality are undertaken, 10% of the cost of constructing the remedy, and 10% of the cost of operating the remedy for a period up to 10 years after the remedy becomes operational and functional; (2) for privately-owned sites at which other remedial actions are undertaken, 10% of the cost of all remedial action, and 10% of costs incurred within one year after remedial action is complete to ensure that the remedy is operational and functional; and (3) for sites publicly-operated by a State or political subdivision at which response actions are undertaken, at least 50% of the cost of all response actions. States must assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately $28 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately $25 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose cost on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: The volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this proposed amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this proposal on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's proposal to place additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Proposing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at these sites.

V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes to revise the NCP, it is not a typical regulatory change since it does not automatically

impose costs. As stated above, proposing sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the costs of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's proposed inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

NATIONAL PRIORITIES LIST PROPOSED RULE #13 GENERAL SUPERFUND SECTION

State	Site name	City/county	NPL Gr [1]
IA	Waterloo Coal Gasification Plant	Waterloo	5
MD	Spectron, Inc	Elkton	4
MN	Lake Elmo Airport/Ground Water Contamination	Baytown Township	13
NE	American Shizuki Corp./Ogallala Electronics and Manufacturing, Inc	Ogallala	5
NE	Bruno Co-op Association/Associated Properties	Bruno	5
NM	AT&SF (Albuquerque)	Albuquerque	5
NM	Rinchem Co. Inc	Albuquerque	10
WA	Spokane Junkyard/Associated Properties	Spokane	5

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

Number of sites proposed for listing: 8.

NATIONAL PRIORITIES LIST PROPOSED RULE #13 FEDERAL FACILITIES SECTION

State	Site name	City/county	NPL Gr [1]
AK	Naval Air Station Adak	Adak Island	4

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

Number of sites proposed for listing: 1.

Authority: 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321(c)(2); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12580, 3 CFR, 1987 Comp., p. 193.

Dated: October 5, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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federal register

Wednesday
October 14, 1992

Part V

Department of Transportation

Federal Transit Administration

FTA Fiscal year 1993 Apportionments and Allocations; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 1993 Apportionments and Allocations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) and Related Agencies Appropriations Act, 1993, signed into law by President Bush on October 6, 1992, provides fiscal year 1993 appropriations for the Federal Transit Administration's transit assistance programs. As required by law, the Agency today is publishing a comprehensive list of apportionments/allocations for its various funding programs.

This Notice includes the apportionment of fiscal year 1993 funds for the Sections 9, 18, and 16 formula programs, 23 U.S.C. sec. 103(e)(4), the Interstate Substitute Transit Program, the Section 3 Fixed Guideway Modernization Program, and the Sections 8 and 26(a)(2) Planning Programs, based on the 1993 DOT Appropriations Act, the Federal Transit Act, as amended, and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). This Notice also contains the allocations for the statutorily required funding for the Section 3 New Starts Program and the Section 3 Bus Program. Statutory limitations on the use of operating assistance are also included in this Notice, as well as other pertinent information.

Several technical amendments to the Federal Transit Act, as amended, are contained within the 1993 DOT Appropriations Act. Relevant amendments are discussed within this Notice.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant specific information and issues; Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, (202) 366–2053, for general information concerning Sections 3, 9, 18, 16, or 23 U.S.C. sec. 103(e)(4) (Interstate Substitute Transit Program); or Robert F. Kirkland, Chief, Resource Management Division, Office of Planning, (202) 366–1632, for general information concerning the Sections 8 and 26(a)(2) Planning Programs.

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I. Background

Section 9 program funds are apportioned by statutory formula to urbanized areas and to the Governors to provide capital and operating assistance in urbanized areas. Section 18 program funds are apportioned by statutory formula to the States for capital and operating assistance in nonurbanized areas. Section 16 program funds are apportioned by statutory formula to the States to provide capital assistance to organizations providing transportation service for elderly persons and persons with disabilities. Interstate substitute transit funds are allocated by formula to areas that have withdrawn planned interstate routes. Section 3 fixed guideway modernization funds are apportioned by statutory formula to specified urbanized areas for capital improvements in rail and other fixed guideways. Funds appropriated for planning by Metropolitan Planning Organizations (MPO's) under Section 8 are apportioned by a statutory formula to the States for allocation by them to MPO's in urbanized areas or portions thereof. Appropriated funds under Section 26(a)(2) for State planning and research also are apportioned to States by a statutory formula. Statutorily required Section 3 new starts and bus fund allocations are also included.

II. Overview of Appropriations for Grant Programs

A. General

In fiscal year 1993, the appropriation for the Sections 9 and 18 programs is $1,651,364,000. Of this amount, 94.50 percent is made available to the Section 9 program; and 5.50 percent is made available to the Section 18 program. The other program appropriations contained in this Notice are as follows: $4,250,000 for the Rural Transit Assistance Program (RTAP); $48,636,000 for the Section 16 program; $1,725,000,000 for the Section 3 program; $38,250,000 for the Section 8 program; $7,750,000 for the Section 26(a)(2) program; and $75,000,000 for the Interstate Substitute Transit Program. Of the Section 3 amount, $666,255,000 is for fixed guideway modernization projects, $721,805,000 is for the New Starts Program, and $336,940,000 is for the Bus Program.

Table 1 displays the amounts appropriated for these programs, including adjustments and final apportionment/allocation amounts. Text following this table provides a narrative explanation for the funding levels and other factors affecting these apportionments/allocations.

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Table 1

FTA FISCAL YEAR 1993 APPROPRIATIONS FOR GRANT PROGRAMS

SOURCES OF FUNDS		TOTAL AVAILABLE
SECTIONS 9 AND 18 PROGRAMS	$1,651,364,000	
SECTION 9 PROGRAM		
(94.50% of Total Available for Sections 9 and 18).		$1,560,538,980
Less 1/2% Set-Aside		(7,802,694)
1993 World University Games Set-Aside		(4,000,000)
Reapportioned Funds Added		9,738,226
Total Apportioned		1,558,474,512
Operating Assistance Limitation		802,278,000
SECTION 18 PROGRAM		
(5.50% of Total Available for Sections 9 and 18)..		90,825,020
Less 1/2% Set-Aside		(454,125)
Reapportioned Funds Added		1,003,623
Total Apportioned		91,374,518
RTAP PROGRAM		4,250,000
Reallocated Funds Added		13,604
Total Allocated		4,263,604
SECTION 16 PROGRAM		48,636,000
WASHINGTON METRO RAIL		170,000,000
Less 1/2% Set-Aside		(850,000)
Total Allocated		169,150,000
INTERSTATE SUBSTITUTE TRANSIT PROGRAM		75,000,000
Less 1/2% Set-Aside		(375,000)
Total Allocated		74,625,000
SECTION 3 PROGRAM	1,725,000,000	
FIXED GUIDEWAY MODERNIZATION		666,255,000
Less 3/4% Set-Aside		(4,996,912)
Total Apportioned		661,258,088
NEW STARTS		721,805,000
Less 3/4% Set-Aside		(5,413,537)
Total Allocated		716,391,463
BUS		336,940,000
Less 3/4% Set-Aside		(2,527,050)
Total Allocated		334,412,950
SECTION 8 PROGRAM		38,250,000
SECTION 26(a) PROGRAM		7,750,000

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B. Project Management Set-Aside

Section 23 of the Federal Transit Act, as amended, allows the Secretary of Transportation to use not more than one-half of one percent of the funds made available under Sections 3, 9, 18, the National Capital Transportation Act, as amended, and 23 U.S.C. sec. 103(e)(4) (Interstate Substitute Transit Program), and an additional one-quarter of one percent of Section 3 funds to contract with any person to oversee the construction of any major project under these statutory programs and to conduct safety, procurement, management and financial reviews and audits. Therefore, one-half of one percent of the funds appropriated for fiscal year 1993 for Sections 9, 18, the National Capital Transportation Act, as amended, and 23 U.S.C. sec. 103(e)(4), and three-quarters of one percent of Section 3 funds have been reserved for this purpose before apportionment of the funds.

III. Section 9 Program

A. Total Section 9 Formula Apportionments

In addition to the appropriated fiscal year 1993 Section 9 funds of $1,560,538,980, the Section 9 apportionment also includes $9,738,226 in deobligated Sections 5 and 9 funds which have become available for reapportionment under the Section 9 program as provided for under Section 9(o). Section 3042 of ISTEA provides that $4,000,000 of Section 9 funds be dedicated for the 1993 World University Games. This amount has been withheld for this purpose before apportionment.

Table 2 displays the amount apportioned for the Section 9 program. After the one-half percent set-aside, the amount appropriated under Section 9 is $1,548,736,286. The funds to be reapportioned, described in the previous paragraph, were then added. Thus, the total amount being apportioned for Section 9 is $1,558,474,512. For the first time this fiscal year, the urbanized area and State apportionments are not broken down by General Fund and Trust Fund amounts because language in the 1993 DOT Appropriations Act allows operating assistance to be funded from the General Fund or Trust Fund.

The $4,000,000 set-aside is to be made available to the State of New York or to any other public body to contract with public and private carriers to meet the transportation needs associated with the staging of the 1993 World University Games in the State of New York. These funds may be used for any purpose eligible under Section 9. The local matching requirement for operating assistance does not apply. This set-aside is separate from and in addition to the Section 9 apportionment for the Buffalo urbanized area contained in this Notice.

B. Adjustments to Urbanized Areas

According to the 1990 Census, Enid, Oklahoma, and Danville, Illinois lost population and changed from urbanized to nonurbanized status. However, a statutory exception permits these two areas to phase out of the Section 9 urbanized area population base during fiscal years 1992 and 1993. In fiscal year 1992, these areas were retained in the Section 9 base and received an apportionment as if they were urbanized. In fiscal year 1993, Enid and Danville are partially phased into the rural population base. Thus, the State, on behalf of these areas, receives an equivalent to one-half the amount of Section 18 funds their State would have received as a result of the area's population. Enid and Danville also receive one-half the amount they would otherwise be entitled to receive as an urbanized area. These adjustments are reflected in the fiscal year 1993 apportionments for both Sections 9 and 18.

C. Data Used for Section 9 Apportionments

Data submitted for the 1991 Section 15 Report Year has been used to calculate the fiscal year 1993 Section 9 apportionments for urbanized areas over 200,000 in population. Section 15 reports are being submitted and processed more rapidly and thus more current Section 15 data can be used for the apportionments. The population and population density figures used in calculating the Section 9 formula are from the 1990 Census.

The 1993 DOT Appropriations Act also added a new provision regarding the treatment of certain bus revenue mileage. It states that for purposes of the apportionment of funds under Section 9 of the Federal Transit Act for fiscal year 1993, the total bus revenue vehicle miles provided by the Duke Power Company in the year ending June 30, 1990, shall be treated as having been provided by the City of Durham, North Carolina. Accordingly, these revenue vehicle miles are included in the Section 9 database used to calculate the fiscal year 1993 apportionment for the Durham urbanized area.

D. Adjustments for Energy and Operating Efficiencies

Section 9(b)(4) of the Federal Transit Act, as amended, provides that, if a recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under Section 9(b)(2)(A) shall not be reduced as a result of such actions. One recipient has submitted data acceptable to FTA in accordance with this provision. Accordingly, the revenue vehicle miles used in the Section 9 apportionment reflect the amount the recipient would have received without the reductions in mileage.

E. Section 9 Fiscal Year 1993 Apportionments to Governors

The total Section 9 apportionment to the Governor for use in areas under 200,000 in population for each State is shown on Table 2. The Governor may determine the allocation of these funds among the urbanized areas under 200,000 in population. However, funds attributed to a transportation management area which contains an urbanized area under 200,000 in population must be obligated in that area. Table 2 also contains the total apportionment amount attributable to each urbanized area above 50,000 in population within the State.

FTA encourages State agencies to be the applicant for Section 9 funds on behalf of urbanized areas under 200,000 in population. With the State acting as applicant, funding for several urbanized areas could be combined in a single grant.

F. Section 9 Operating Assistance Limitations

The fiscal year 1993 limitations on the amount of Section 9 funds that may be used for operating assistance are included in Table 2 with the fiscal year 1993 apportionment.

The operating assistance limitations for all urbanized areas have been increased under provisions of Section 9(k)(2)(B) of the Federal Transit Act, as amended, to reflect the increase in the Consumer Price Index (CPI) for all urban consumers during the most recent calendar year. The CPI Detailed Report, December 1991, published by the Department of Labor, indicates the calendar year 1991 CPI increase for all urban consumers is 3.1 percent. This increase was applied against the base operating assistance limitation calculated under Section 9(k)(2)(A).

Section 3043 of the ISTEA also increases the operating assistance limitation for the New York, New York-Northeastern New Jersey urbanized area by $2,700,000. Such funds apply to the

Staten Island Ferry project, and are reflected in the limitation.

These increases result in an overall national fiscal year 1993 authorized operating assistance limitation level of $1,028,473,908. However, the 1993 DOT Appropriations Act limits the nationwide availability for operating assistance to a maximum of $802,278,000. Accordingly, the operating assistance limitation published in this Notice takes into account both the 1993 DOT Appropriations Act and the Federal Transit Act, as amended. Therefore, the higher operating assistance limitation of the Federal Transit Act, as amended, ($1,028,473,908) has been reduced to the $802,278,000 required by the 1993 DOT Appropriations Act by taking a pro rata reduction across all categories of grantees.

H. Statewide Operating Assistance Limitations

The Federal Transit Act, as amended, specifies that in any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of FTA funds, and when the statewide agency or instrumentality provides service among two or more urbanized areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which it provides service, regardless of whether the amount for any particular urbanized area is exceeded. In so doing, FTA will not reduce the amount of operating assistance allowed for any other state or local transit agency or instrumentality within the urbanized area affected. In short, this permits the statewide agency to combine all of the operating assistance limitations within the State. This provision became effective with the fiscal year 1990 Section 9 apportionments. Thus, the operating assistance limitations for each urbanized area are not constrained by the availability of General Funds for any one particular urbanized area.

IV. Section 18 and RTAP Programs

A. Section 18 Program

The fiscal year 1993 Section 18 apportionment totals $91,374,518. The State apportionments are displayed on Table 3.

A total of $90,825,000 is appropriated for the Section 18 program. After the one-half percent set-aside, the fiscal year 1993 apportionment also includes $1,003,623 in prior year deobligated funds which have become available for reapportionment under Section 18. Section 18 funds provide capital, operating, and administrative assistance for areas less than 50,000 in population.

Each State must spend no less than 10 percent of its fiscal year 1993 Section 18 apportionment for the development and support of intercity bus transportation, unless the Governor certifies to the Secretary that the intercity bus service needs of the State are being adequately met. Fiscal year 1993 Section 18 grant applications must reflect this level of programming for intercity bus or include a certification from the Governor. The percentage required to be spent on intercity bus transportation will rise to 15 percent in fiscal year 1994 and beyond.

A provision of the 1993 DOT Appropriations Act applies the temporary matching fund waiver authorized under Section 1054 of the ISTEA to the Section 18 program. States may now request a Federal share of 100 percent of the cost of a capital project funded with Section 18 funds through September 30, 1993, provided that the grantee certify that sufficient funds are not available to pay the cost of the non-federal share of the project. The amount of the increased share actually obligated by the FTA must be repaid by March 30, 1994. If the amount owed is not repaid by that time, the amount will be deducted 50 percent from the fiscal year 1995 Section 18 apportionment and 50 percent from the fiscal year 1996 apportionment. This temporary waiver provision also applies to flexible funds transferred to the Section 18 program.

The population figures used in calculating the Section 18 apportionment figures are from the 1990 Census.

B. RTAP Program

The fiscal year 1993 Rural Transit Assistance Program (RTAP) allocations to the States totaling $4,263,604 are also displayed on Table 3. This amount includes $4,250,000 in fiscal year 1993 appropriated funds, and $13,604 in prior year deobligated funds which have become available for reallocation. The funds are allocated to the States to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. These funds are to be used in conjunction with the States' administration of the Section 18 formula assistance program.

V. Section 16 Program

A total of $48,636,000 is apportioned to the States for fiscal year 1993 under the Section 16 program. Table 4 shows each State's apportionment.

The formula for apportioning Section 16 funds uses 1990 Census population data for persons aged sixty-five and over for persons with disabilities. This is the first year that 1990 Census data on the population of persons with disabilities is available by State. In fiscal year 1992, 1980 Census data on the population of persons with disabilities was used.

The funds provide capital assistance for transportation for elderly persons and persons with disabilities. Eligible capital expenses may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.

While the assistance is intended primarily for private non-profit organizations, public bodies that coordinate services for the elderly and persons with disabilities, or any public body that certifies to the State that non-profit organizations in the area are not readily available to carry out the service, may receive Section 16 funds.

The ISTEA required FTA to issue a regulation to allow vehicles purchased with Section 16 funds to be leased to local public bodies for Section 16 services. Language in the 1993 DOT Appropriations Act amended that provision by substituting the word "guideline" for "regulation." Thus, guidance on leasing will be contained in the forthcoming revision to the Section 16 Circular, C9070.1C.

Section 16 funds may be transferred by the Governor to supplement Section 9 or Section 18 funds during the last 90 days of the fiscal year.

VI. Title 23 Interstate Substitute Transit Program

A total of $75,000,000 is appropriated for transit projects which have been substituted for withdrawn interstate highway segments. The funds are allocated by a formula which reflects the remaining cost to complete each withdrawal area's substitute transit projects. After the one-half percent set-aside, $74,625,000 remains for projects. Table 5 displays the allocation of these funds.

In addition to the funds directly appropriated for interstate substitute transit projects, substitute highway funds allocated to a withdrawal area may be transferred from FHWA to FTA to be used for transit projects.

VII. Surface Transportation Program "Flexible" Funds Used for Transit Purposes.

"Flexible" Federal Highway Administration (FHWA) funds, such as Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, or others, which are designated for use on transit projects are transferred to FTA for project approval. In order to initiate the transfer process, the grantee must submit a completed application to the FTA Regional Office, and must notify the state highway agency that it has submitted an application which requires a transfer of funds. The state highway agency must notify FHWA that the funds are to be used for transit purposes and request that they be transferred to FTA. The flexible funds transferred to FTA will be placed in an urbanized area or state account under one of the three existing formula programs—Sections 9, 16, or 18. From thereon, they will be treated as FTA formula funds, although they will retain a special identifying code. The flexible funds may be used for any non-operating purpose eligible under these FTA programs. The provisions of Title 23, U.S.C., regarding the non-Federal share apply to flexible funds transferred for transit projects.

FTA encourages grantees to combine flexible funds with regular FTA formula funds in a single grant application. However, it is recognized that there may be circumstances which preclude this, particularly in this start-up period of the flexible funding program. As the planning and programming of flexible funds becomes a routine part of the local and state planning process, it is expected that the flexible funds will be combined with other FTA formula resources in a single grant request and applied for annually.

VIII. Section 3 Program

A. Section 3 Fixed Guideway Modernization

Section 3 fixed guideway modernization funds (formerly rail modernization) are allocated by formula. Statutory percentages were established to allocate the first $497,700,000 to 11 fixed guideway areas. The next $70,000,000 is allocated one-half to these 11 urbanized areas and one-half to all other urbanized areas with fixed guideways which are at least 7 years old on the basis of the Section 9 fixed guideway tier formula factors. Any remaining funds are allocated to all of these urbanized areas as one universe.

For fiscal year 1993, $666,255,000 was appropriated for fixed guideway modernization. After the three-quarter percent set-aside, $661,258,088 is available for apportionment to the specified urbanized areas for fiscal year 1993 under the Section 3 Fixed Guideway Modernization Program.

Table 6 displays these apportionments. Section 3 fixed guideway modernization funds apportioned under this section must be used for capital projects related to such fixed guideway systems.

All urbanized areas with fixed guideway systems which are at least 7 years old are eligible to receive Section 3 fixed guideway modernization funds. A request for this information has been incorporated into the Section 15 data reporting system to ensure that all eligible fixed guideway systems are included in the apportionments. The first results will be ready for the fiscal year 1994 apportionments.

B. Section 3 New Starts

The fiscal year 1993 appropriation for the New Starts Program is $721,805,000. These funds are entirely earmarked for projects specified within the 1993 DOT Appropriations Act. After the three-quarter percent set-aside, $716,391,463 remains available for allocation to areas. Table 7 displays the allocations by area and also shows prior year unobligated earmarks for the New Starts Program.

C. Section 3 Bus

The fiscal year 1993 appropriation for the Section 3 Bus Program is $336,940,000. After the three-quarter percent set-aside, $334,412,950 remains for projects. In past years, FTA has received applications for these funds and has made selections for funding based on national demand, established criteria, and program priorities. This year, all of the bus funds were earmarked by Congress for bus projects in the Conference Report accompanying the 1993 DOT Appropriations Act. To the extent possible, it is the agency's practice to follow these directives. Accordingly, Table 8 contains the allocations of fiscal year 1993 Section 3 Bus Program funds. $12,000,000 was allocated first to two projects mandated by law for fiscal year 1993 in the ISTEA. Such statutory requirements take precedence over report earmarks. These ISTEA allocations plus the three-quarter percent set-aside total 4.3 percent of the total funds appropriated. Thus, the projects earmarked in the 1993 DOT Appropriations Conference Report were each reduced by 4.3 percent.

Section 3(k)(3) of the Federal Transit Act, as amended, requires that at least 5.5 percent of the amounts available for this program be available for areas other than urbanized areas. This requirement is met through the allocations to projects intended to serve nonurbanized areas.

The table also lists Section 3 prior year unobligated earmarks under the Bus Program. All prior year Section 3 bus funds have been fully allocated to projects. Thus, Section 3 grant applications which previously have been submitted to FTA Regional Offices for consideration in fiscal 1993 cannot be funded unless they are included on the table contained in this Notice.

IX. Sections 8 and 26(a)(2) Programs

A. Section 8 Urbanized Area Program

The fiscal year 1993 Section 8 apportionment to States for Metropolitan Planning Organizations (MPO's) to be used in urbanized areas totals $38,250,000. A basic allocation of 80 percent of this amount, $30,600,000, is distributed to the States based on urbanized area population for State distribution to each urbanized area, or parts thereof, within each State. A supplemental allocation of the remaining 20 percent, $7,650,000, is also provided to the States based on an FTA administrative formula to address planning needs in the larger, more complex urbanized areas.

Table 9 contains the final State apportionments for the combined basic and supplemental allocations. Each State, in cooperation with the MPO's, must develop an allocation formula for the combined apportionment which distributes these funds to MPO's representing urbanized areas, or parts thereof, within the State. This formula, to be approved by the FTA, must ensure to the maximum extent practicable that no MPO is allocated less than the amount it received by administrative formula under Section 8 in fiscal year 1991. Where the State and MPO's desire to use a new formula not previously approved by FTA, they must be submitted to FTA for prior approval.

MPO costs incurred from the date of this Notice until grant award to the State for eligible Section 8 planning activities (FTA Circular C8100.1A, Chapter II, Section 2) may be reimbursed, subject to statutory and administrative procedures and to the availability of funds.

B. Section 26(a)(2) State Planning and Research Program

The fiscal year 1993 apportionment for the State Section 26(a)(2) Planning and Research Program totals $7,750,000. Final State apportionments for this program are also contained on Table 9. This is the second year of a new consolidated program which is

apportioned to the States for purposes of Sections 6, 8, 10, 11, and 20 of the ISTEA, and includes such activities as planning, technical studies and assistance, demonstrations, management training, and cooperative research. In addition, a State may authorize a portion of these funds to be used to supplement Section 8 funds allocated by the State to its urbanized areas, as the respective State deems appropriate. Costs incurred by the State from the date of this Notice until grant award may be reimbursed, subject to statutory and administrative procedures and to the availability of funds.

C. Data Used for Sections 8 and 26(a)(2) Apportionments

Population data from the 1990 Census is used in calculating Sections 8 and 26(a)(2) apportionments. The Section 8 funding provided to urbanized areas in each State by administrative formula in fiscal year 1991 was used as a "hold harmless" base in calculating funding to each State.

X. Unit Values of Data for Sections 9 and 18, and Section 3 Fixed Guideway Modernization

For technical assistance purposes, the dollar unit values of data derived from the computations of Sections 9 and 18, and Section 3 fixed guideway modernization apportionments are included in this Notice on Table 10. To determine how a particular apportionment amount was developed, areas may multiply their population, population density, and Section 15 data by these unit values.

XI. Period of Availability of Funds

The funds apportioned under Section 9, Section 3 fixed guideway modernization, Sections 8 and 26(a)(2) in this Notice will remain available to be obligated by FTA to recipients for three (3) fiscal years following fiscal year 1993. Any of these apportioned funds unobligated at the close of business on September 30, 1996, will revert to FTA for reapportionment under these respective programs. Funds apportioned to nonurbanized areas under Section 18, including RTAP funds, will remain available for two (2) fiscal years following fiscal year 1993. Any such funds remaining unobligated at the close of business on September 30, 1995, will revert to FTA for reapportionment among the States. Funds allocated to States under Section 16 in this Notice must be obligated by September 30, 1993. Any such funds remaining unobligated as of this date will revert to FTA for reapportionment among the States. Fiscal year 1993 Title 23 Interstate Substitute Transit funds are available until expended.

XII. Quarterly Approval of Grants

The FTA has established a quarterly approval and release cycle for processing all formula grants. All Sections 9, 18, 16, 3, 8, 26(a)(2), Title 23 Interstate Substitute Transit grants will be processed on a quarterly basis. These include Sections 9, 18, or 16 grants using STP or CMAQ funds.

If completed applications are submitted to the appropriate FTA Regional Office no later than the first business day of the quarter, FTA will award grants by the last business day of the quarter.

The first quarter grants will be released on December 31, 1992. The only factor which would delay FTA's approval of the project would be a failure by the Department of Labor (DOL) to issue a 13(c) certification where such certification is a prerequisite to a grant approval. Incompleted applications will not be processed, but if the missing components are supplied, will be reconsidered in the next quarter.

For an application to be considered complete, all required activities such as inclusion of the project in a locally approved Transportation Improvement Program (TIP), a State Transportation Program (STIP), intergovernmental reviews, environmental reviews, all applicable civil rights, anti-drug, and clean air requirements, and submission of all requisite certifications and documentation must be completed. The application must be in approvable form with all required documentation and submissions on hand, except for the 13(c) certification which is issued by DOL.

It is the policy of FTA to expedite grant application reviews and speed program delivery by reducing the number of grant applications. To this end, FTA strongly encourages grant applicants to submit only one application per fiscal year for each formula program. The single application should contain the fiscal year's capital, planning and operating elements.

XIII. Grant Application Procedures

All applications for FTA funds should be submitted to the appropriate FTA Regional Office. Formula grant applications should be prepared in conformance with the following FTA Circulars: Section 9—C9030.1A, September 18, 1987; Section 18—C9040.1B, July 1, 1988; and Section 16—C9070.1B, July 1, 1988. Applications for STP "flexible" fund grants should be prepared in the same manner as the apportioned funds under Sections 9, 18, or 16. Guidance on preparation of applications for Sections 3, 8, 26(a) and Title 23 funds may be obtained from each FTA Regional Office. Copies of circulars are also available from Regional Offices.

Issued on: October 8, 1992.

Brian W. Clymer,

Administrator.

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Table 2

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 1,000,000 IN POPULATION

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
Atlanta, GA	21,430,038	6,058,908
Baltimore, MD	16,676,643	9,697,773
Boston, MA	44,829,517	18,207,518
Chicago, IL-Northwestern IN	114,384,364	50,443,910
Cincinnati, OH-KY	7,732,901	5,253,033
Cleveland, OH	14,435,556	9,611,309
Dallas-Fort Worth, TX	19,629,479	8,618,892
Denver, CO	11,720,769	5,884,053
Detroit, MI	21,012,359	21,337,676
Ft Lauderdale-Hollywood-Pompano Bch, FL	10,741,056	7,318,069
Houston, TX	22,140,185	9,056,643
Kansas City, MO-KS	5,756,944	4,451,011
Los Angeles, CA	100,405,981	56,911,593
Miami-Hialeah, FL	19,711,981	8,359,593
Milwaukee, WI	9,709,147	5,446,674
Minneapolis-St. Paul, MN	12,565,057	7,262,317
New Orleans, LA	8,899,093	6,587,966
New York, NY-Northeastern NJ	349,872,854	133,909,442
Norfolk-Virginia Beach-Newport News, VA	5,916,101	4,184,708
Philadelphia, PA-NJ	66,061,235	31,728,551
Phoenix, AZ	12,199,377	4,692,298
Pittsburgh, PA	19,754,475	9,470,930
Portland-Vancouver, OR-WA	11,599,121	4,388,378
Riverside-San Bernardino, CA	5,344,767	2,508,192
Sacramento, CA	6,866,860	3,468,808
San Antonio, TX	9,709,929	4,564,333
San Diego, CA	19,870,597	7,282,980
San Francisco-Oakland, CA	63,207,644	19,391,790
San Jose, CA	14,669,457	6,588,430
San Juan, PR	7,251,519	7,488,255
Seattle, WA	25,118,560	6,153,498
St. Louis, MO-IL	11,614,619	9,561,131
Tampa-St. Petersburg-Clearwater, FL	8,332,585	5,205,691
Washington, DC-MD-VA	49,607,992	16,833,949
TOTAL	$1,148,778,762	$517,928,302

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
Akron, OH	3,087,356	2,297,110
Albany-Schenectady-Troy, NY	4,227,345	2,227,945
Albuquerque, NM	3,026,556	1,539,651
Allentown-Bethlehem-Easton, PA-NJ	2,377,745	2,329,391
Anchorage, AK	1,348,700	760,197
Ann Arbor, MI	2,085,815	976,723
Augusta, GA-SC	1,108,458	778,062
Austin, TX	6,368,556	1,465,230
Bakersfield, CA	2,016,525	955,380
Baton Rouge, LA	1,655,498	1,276,677
Birmingham, AL	3,148,514	2,345,163
Bridgeport-Milford, CT	3,424,530	2,036,033
Buffalo-Niagara Falls, NY	7,394,349	5,976,395
Canton, OH	1,064,091	1,124,917
Charleston, SC	1,626,206	1,066,536
Charlotte, NC	3,238,142	1,285,729
Chattanooga, TN-GA	1,433,837	969,262
Colorado Springs, CO	1,937,755	962,195
Columbia, SC	1,523,933	1,088,820
Columbus, GA-AL	1,045,760	815,818
Columbus, OH	6,425,552	4,334,561
Corpus Christi, TX	2,086,136	856,157
Davenport-Rock Island-Moline, IA-IL	1,615,042	1,113,993
Dayton, OH	6,351,079	2,884,311
Daytona Beach, FL	1,189,462	773,575
Des Moines, IA	1,593,728	1,084,968
Durham, NC	1,441,777	797,345
El Paso, TX-NM	4,346,914	1,774,567
Fayetteville, NC	837,589	733,765
Flint, MI	1,780,613	1,509,235
Fort Myers-Cape Coral, FL	1,111,827	563,507
Fort Wayne, IN	1,270,261	1,076,163
Fresno, CA	2,925,220	1,448,232
Grand Rapids, MI	2,274,192	1,530,723
Greenville, SC	1,188,016	739,875
Harrisburg, PA	1,409,093	1,117,403
Hartford-Middletown, CT	5,057,324	2,267,591
Honolulu, HI	12,153,086	2,808,361
Indianapolis, IN	4,937,239	3,773,399
Jackson, MS	1,125,938	892,021
Jacksonville, FL	4,185,432	1,999,313
Knoxville, TN	1,363,691	889,235
Lansing-East Lansing, MI	1,826,465	1,147,893
Las Vegas, NV	3,536,274	1,362,623
Lawrence-Haverhill, MA-NH	1,995,602	843,517
Lexington-Fayette, KY	1,270,162	1,279,566
Little Rock-North Little Rock, AR	1,504,371	1,023,158
Lorain-Elyria, OH	822,363	771,822
Louisville, KY-IN	5,989,469	3,853,797

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
Madison, WI	2,696,946	984,441
McAllen-Edinburg-Mission, TX	757,734	817,865
Melbourne-Palm Bay, FL	1,800,085	695,355
Memphis, TN-AR-MS	5,243,251	3,571,657
Mobile, AL	1,422,167	995,292
Modesto, CA	1,655,568	979,564
Montgomery, AL	891,356	1,012,753
Nashville, TN	3,227,820	1,655,962
New Haven-Meriden, CT	5,422,487	2,287,901
Ogden, UT	1,606,325	691,498
Oklahoma City, OK	2,836,101	2,291,931
Omaha, NE-IA	3,382,792	2,350,529
Orlando, FL	4,582,837	1,729,571
Oxnard-Ventura, CA	2,133,149	1,341,349
Pensacola, FL	1,196,640	749,610
Peoria, IL	1,302,304	1,044,438
Providence-Pawtucket, RI-MA	9,238,322	4,695,221
Provo-Orem, UT	1,423,459	804,956
Raleigh, NC	1,477,487	722,325
Reno, NV	1,885,427	832,706
Richmond, VA	3,704,216	1,913,227
Rochester, NY	4,583,060	3,066,951
Rockford, IL	1,073,087	961,132
Salt Lake City, UT	7,079,680	2,425,722
Sarasota-Bradenton, FL	2,009,759	1,252,183
Scranton-Wilkes-Barre, PA	2,043,474	1,720,831
Shreveport, LA	1,465,601	1,042,914
South Bend-Mishawaka, IN-MI	1,337,955	1,139,288
Spokane, WA	3,152,252	1,105,517
Springfield, MA-CT	3,410,981	2,008,531
Stockton, CA	1,765,162	1,326,236
Syracuse, NY	3,303,976	1,883,017
Tacoma, WA	5,065,488	1,539,166
Toledo, OH-MI	3,470,692	2,223,742
Trenton, NJ-PA	2,623,017	1,963,393
Tucson, AZ	4,607,418	1,645,026
Tulsa, OK	2,456,041	1,557,536
West Palm Bch-Boca Raton-Delray Bch, FL	7,083,251	1,639,328
Wichita, KS	1,760,973	1,347,451
Wilmington, DE-NJ-MD-PA	3,181,397	1,992,870
Worcester, MA-CT	1,955,032	1,150,326
Youngstown-Warren, OH	1,395,656	1,772,131
TOTAL	$ 259,464,013	$ 144,459,352

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
ALABAMA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,812,472	$ 2,960,127
Anniston, AL	271,278	
Auburn-Opelika, AL	217,644	
Decatur, AL	248,400	
Dothan, AL	208,630	
Florence, AL	290,670	
Gadsden, AL	256,890	
Huntsville, AL	815,544	
Tuscaloosa, AL	503,416	
ALASKA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 0	$ 0
ARIZONA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 446,614	$ 310,899
Yuma, AZ-CA (AZ)	446,614	
ARKANSAS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,074,574	$ 1,199,748
Fayetteville-Springdale, AR	296,556	
Fort Smith, AR-OK (AR)	403,707	
Pine Bluff, AR	272,817	
Texarkana, TX-AR (AR)	101,494	
CALIFORNIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 16,461,608	$ 10,216,676
Antioch-Pittsburg, CA	930,939	
Chico, CA	406,461	
Davis, CA	493,463	
Fairfield, CA	599,281	
Hemet-San Jacinto, CA	499,968	
Hesperia-Apple Valley-Victorville, CA	637,765	
Indio-Coachella, CA	302,316	
Lancaster-Palmdale, CA	1,072,829	
Lodi, CA	420,031	
Lompoc, CA	257,934	
Merced, CA	458,604	
Napa, CA	479,191	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
CALIFORNIA:		
Palm Springs, CA	596,933	
Redding, CA	345,152	
Salinas, CA	908,385	
San Luis Obispo, CA	430,189	
Santa Barbara, CA	1,405,324	
Santa Cruz, CA	726,601	
Santa Maria, CA	661,133	
Santa Rosa, CA	1,281,835	
Seaside-Monterey, CA	861,364	
Simi Valley, CA	815,340	
Vacaville, CA	494,979	
Visalia, CA	565,372	
Watsonville, CA	311,466	
Yuba City, CA	496,984	
Yuma, AZ-CA (CA)	1,769	
COLORADO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,033,189	$ 2,762,848
Boulder, CO	674,948	
Fort Collins, CO	562,137	
Grand Junction, CO	320,043	
Greeley, CO	449,623	
Longmont, CO	409,754	
Pueblo, CO	616,684	
CONNECTICUT:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 10,344,175	$ 6,824,726
Bristol, CT	478,061	
Danbury, CT-NY (CT)	1,765,947	
New Britain, CT	895,203	
New London-Norwich, CT	720,322	
Norwalk, CT	1,863,895	
Stamford, CT-NY (CT)	2,342,625	
Waterbury, CT	2,278,122	
DELAWARE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 228,815	$ 143,329
Dover, DE	228,815	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
FLORIDA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,973,917	$ 4,736,321
Deltona, FL	231,867	
Fort Pierce, FL	555,450	
Fort Walton Beach, FL	538,449	
Gainesville, FL	690,080	
Kissimmee, FL	321,422	
Lakeland, FL	705,447	
Naples, FL	464,284	
Ocala, FL	311,875	
Panama City, FL	468,037	
Punta Gorda, FL	306,069	
Spring Hill, FL	233,972	
Stuart, FL	408,256	
Tallahassee, FL	786,641	
Titusville, FL	225,173	
Vero Beach, FL	285,174	
Winter Haven, FL	441,721	
GEORGIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,053,334	$ 3,259,359
Albany, GA	378,185	
Athens, GA	362,606	
Brunswick, GA	208,657	
Macon, GA	677,873	
Rome, GA	212,714	
Savannah, GA	886,887	
Warner Robins, GA	326,412	
HAWAII:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 811,573	$ 714,814
Kailua, HI	811,573	
IDAHO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,606,180	$ 1,216,400
Boise City, ID	982,847	
Idaho Falls, ID	352,337	
Pocatello, ID	270,996	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
ILLINOIS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 7,480,093	$ 8,215,379
Alton, IL	397,578	
Aurora, IL	1,113,564	
Beloit, WI-IL (IL)	50,814	
Bloomington-Normal, IL	640,558	
Champaign-Urbana, IL	903,974	
Crystal Lake, IL	362,922	
Danville, IL	122,959	
Decatur, IL	508,810	
Dubuque, IA-IL (IL)	11,852	
Elgin, IL	803,290	
Joliet, IL	928,800	
Kankakee, IL	364,537	
Round Lake Beach-McHenry, IL-WI (IL)	528,944	
Springfield, IL	741,491	
INDIANA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,291,010	$ 4,602,277
Anderson, IN	346,816	
Bloomington, IN	517,585	
Elkhart-Goshen, IN	518,716	
Evansville, IN-KY (IN)	960,947	
Kokomo, IN	349,279	
Lafayette-West Lafayette, IN	694,404	
Muncie, IN	510,455	
Terre Haute, IN	392,808	
IOWA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,335,893	$ 2,670,590
Cedar Rapids, IA	725,926	
Dubuque, IA-IL (IA)	353,342	
Iowa City, IA	418,269	
Sioux City, IA-NE-SD (IA)	386,293	
Waterloo-Cedar Falls, IA	452,063	
KANSAS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,134,180	$ 1,141,609
Lawrence, KS	429,503	
St. Joseph, MO-KS (KS)	3,545	
Topeka, KS	701,132	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
KENTUCKY:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 893,916	$ 954,733
Clarksville, TN-KY (KY)	109,068	
Evansville, IN-KY (KY)	133,944	
Huntington-Ashland, WV-KY-OH (KY)	267,101	
Owensboro, KY	383,803	
LOUISIANA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,647,293	$ 2,807,450
Alexandria, LA	386,311	
Houma, LA	271,724	
Lafayette, LA	668,436	
Lake Charles, LA	536,924	
Monroe, LA	510,536	
Slidell, LA	273,362	
MAINE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,152,122	$ 1,214,455
Bangor, ME	236,733	
Lewiston-Auburn, ME	275,080	
Portland, ME	588,227	
Portsmouth-Dover-Rochester, NH-ME (ME)	52,082	
MARYLAND:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,281,267	$ 1,128,907
Annapolis, MD	417,318	
Cumberland, MD-WV (MD)	221,938	
Frederick, MD	301,113	
Hagerstown, MD-PA-WV (MD)	340,898	
MASSACHUSETTS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 5,074,593	$ 6,025,195
Brockton, MA	926,976	
Fall River, MA-RI (MA)	904,137	
Fitchburg-Leominster, MA	366,358	
Hyannis, MA	261,608	
Lowell, MA-NH (MA)	1,147,475	
New Bedford, MA	994,366	
Pittsfield, MA	236,823	
Taunton, MA	236,850	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
MICHIGAN:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,330,356	$ 4,932,788
Battle Creek, MI	361,654	
Bay City, MI	404,043	
Benton Harbor, MI	292,250	
Holland, MI	328,000	
Jackson, MI	403,815	
Kalamazoo, MI	872,027	
Muskegon, MI	531,893	
Port Huron, MI	350,059	
Saginaw, MI	786,615	
MINNESOTA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,543,211	$ 1,638,769
Duluth, MN-WI (MN)	375,496	
Fargo-Moorhead, ND-MN (MN)	217,140	
Grand Forks, ND-MN (MN)	47,591	
La Crosse, WI-MN (MN)	23,312	
Rochester, MN	423,569	
St. Cloud, MN	456,103	
MISSISSIPPI:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,324,817	$ 1,361,992
Biloxi-Gulfport, MS	820,240	
Hattiesburg, MS	255,639	
Pascagoula, MS	248,938	
MISSOURI:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,825,672	$ 1,810,481
Columbia, MO	360,431	
Joplin, MO	253,113	
Springfield, MO	850,322	
St. Joseph, MO-KS (MO)	361,806	
MONTANA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,215,400	$ 1,300,615
Billings, MT	468,721	
Great Falls, MT	437,116	
Missoula, MT	309,563	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
NEBRASKA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,351,188	$ 1,177,116
Lincoln, NE	1,292,742	
Sioux City, IA-NE-SD (NE)	58,446	
NEVADA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 0	$ 0
NEW HAMPSHIRE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,640,745	$ 1,398,359
Lowell, MA-NH (NH)	3,358	
Manchester, NH	687,848	
Nashua, NH	550,043	
Portsmouth-Dover-Rochester, NH-ME (NH)	399,496	
NEW JERSEY:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,243,132	$ 1,745,756
Atlantic City, NJ	896,039	
Vineland-Millville, NJ	347,093	
NEW MEXICO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 676,952	$ 520,309
Las Cruces, NM	376,048	
Santa Fe, NM	300,904	
NEW YORK:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,756,063	$ 4,337,376
Binghamton, NY	942,813	
Danbury, CT-NY (NY)	12,778	
Elmira, NY	387,147	
Glens Falls, NY	266,221	
Ithaca, NY	268,700	
Newburgh, NY	348,907	
Poughkeepsie, NY	732,927	
Stamford, CT-NY (NY)	87	
Utica-Rome, NY	796,483	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
NORTH CAROLINA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,097,415	$ 5,719,361
Asheville, NC	470,630	
Burlington, NC	341,410	
Gastonia, NC	499,899	
Goldsboro, NC	259,608	
Greensboro, NC	1,075,249	
Greenville, NC	298,928	
Hickory, NC	285,074	
High Point, NC	480,752	
Jacksonville, NC	464,152	
Kannapolis, NC	335,071	
Rocky Mount, NC	267,864	
Wilmington, NC	438,104	
Winston-Salem, NC	880,674	
NORTH DAKOTA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,184,785	$ 1,043,924
Bismarck, ND	341,631	
Fargo-Moorhead, ND-MN (ND)	494,102	
Grand Forks, ND-MN (ND)	349,052	
OHIO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,257,527	$ 3,687,778
Hamilton, OH	673,315	
Huntington-Ashland, WV-KY-OH (OH)	171,459	
Lima, OH	367,983	
Mansfield, OH	355,260	
Middletown, OH	462,917	
Newark, OH	282,058	
Parkersburg, WV-OH (OH)	41,767	
Sharon, PA-OH (OH)	27,540	
Springfield, OH	535,504	
Steubenville-Weirton, OH-WV-PA (OH)	192,642	
Wheeling, WV-OH (OH)	147,082	
OKLAHOMA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 600,751	$ 697,334
Enid, OK	93,733	
Fort Smith, AR-OK (OK)	8,894	
Lawton, OK	498,124	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
OREGON:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,644,192	$ 2,140,761
Eugene-Springfield, OR	1,244,687	
Longview, WA-OR (OR)	8,277	
Medford, OR	384,655	
Salem, OR	1,006,573	
PENNSYLVANIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,912,316	$ 7,705,736
Altoona, PA	472,209	
Erie, PA	1,214,772	
Hagerstown, MD-PA-WV (PA)	4,161	
Johnstown, PA	435,441	
Lancaster, PA	1,098,268	
Monessen, PA	298,866	
Pottstown, PA	283,619	
Reading, PA	1,282,088	
Sharon, PA-OH (PA)	198,548	
State College, PA	413,272	
Steubenville-Weirton, OH-WV-PA (PA)	1,443	
Williamsport, PA	346,425	
York, PA	863,204	
PUERTO RICO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,385,710	$ 4,975,402
Aguadilla, PR	558,637	
Arecibo, PR	521,982	
Caguas, PR	1,367,051	
Cayey, PR	404,190	
Humacao, PR	349,805	
Mayaguez, PR	751,570	
Ponce, PR	1,672,541	
Vega Baja-Manati, PR	759,934	
RHODE ISLAND:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 406,457	$ 369,968
Fall River, MA-RI (RI)	93,180	
Newport, RI	313,277	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
SOUTH CAROLINA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,721,163	$ 1,521,927
Anderson, SC	231,482	
Florence, SC	238,096	
Myrtle Beach, SC	249,687	
Rock Hill, SC	265,119	
Spartanburg, SC	462,157	
Sumter, SC	274,622	
SOUTH DAKOTA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 854,645	$ 786,156
Rapid City, SD	272,180	
Sioux City, IA-NE-SD (SD)	7,631	
Sioux Falls, SD	574,834	
TENNESSEE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,322,628	$ 1,333,729
Bristol, TN-VA (TN)	123,625	
Clarksville, TN-KY (TN)	301,423	
Jackson, TN	228,150	
Johnson City, TN	347,773	
Kingsport, TN-VA (TN)	321,657	
TEXAS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 12,246,951	$ 11,547,311
Abilene, TX	434,476	
Amarillo, TX	805,911	
Beaumont, TX	554,273	
Brownsville, TX	805,697	
Bryan-College Station, TX	539,649	
Denton, TX	291,493	
Galveston, TX	309,223	
Harlingen, TX	395,950	
Killeen, TX	757,361	
Laredo, TX	956,586	
Lewisville, TX	336,500	
Longview, TX	331,076	
Lubbock, TX	942,924	
Midland, TX	413,130	
Odessa, TX	458,296	
Port Arthur, TX	499,950	
San Angelo, TX	429,617	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
TEXAS:		
Sherman-Denison, TX	215,034	
Temple, TX	244,129	
Texarkana, TX-AR (TX)	196,999	
Texas City, TX	523,642	
Tyler, TX	409,500	
Victoria, TX	283,875	
Waco, TX	618,398	
Wichita Falls, TX	493,262	
UTAH:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 244,777	$ 153,331
Logan, UT	244,777	
VERMONT:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 429,513	$ 367,109
Burlington, VT	429,513	
VIRGINIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,851,077	$ 3,020,062
Bristol, TN-VA (VA)	88,012	
Charlottesville, VA	409,978	
Danville, VA	232,797	
Fredericksburg, VA	273,319	
Kingsport, TN-VA (VA)	16,616	
Lynchburg, VA	389,988	
Petersburg, VA	494,425	
Roanoke, VA	945,942	
WASHINGTON:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,694,352	$ 2,166,009
Bellingham, WA	317,451	
Bremerton, WA	614,965	
Longview, WA-OR (WA)	268,608	
Olympia, WA	478,437	
Richland-Kennewick-Pasco, WA	499,095	
Yakima, WA	515,796	

FISCAL YEAR 1993 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
WEST VIRGINIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,070,763	$ 2,721,049
Charleston, WV	833,025	
Cumberland, MD-WV (WV)	9,963	
Hagerstown, MD-PA-WV (WV)	2,516	
Huntington-Ashland, WV-KY-OH (WV)	467,699	
Parkersburg, WV-OH (WV)	300,797	
Steubenville-Weirton, OH-WV-PA (WV)	129,409	
Wheeling, WV-OH (WV)	327,354	
WISCONSIN:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 5,668,896	$ 5,911,194
Appleton-Neenah, WI	1,038,103	
Beloit, WI-IL (WI)	222,505	
Duluth, MN-WI (WI)	97,456	
Eau Claire, WI	406,589	
Green Bay, WI	788,394	
Janesville, WI	299,234	
Kenosha, WI	544,850	
La Crosse, WI-MN (WI)	432,548	
Oshkosh, WI	377,501	
Racine, WI	841,553	
Round Lake Beach-McHenry, IL-WI (WI)	315	
Sheboygan, WI	355,667	
Wausau, WI	264,181	
WYOMING:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 593,465	$ 692,802
Casper, WY	272,237	
Cheyenne, WY	321,228	
TOTAL	$ 150,231,737	$139,890,346

	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
OVER 1,000,000 IN POPULATION	1,148,778,762	517,928,302
200,000-1,000,000 IN POPULATION	259,464,013	144,459,352
50,000-200,000 IN POPULATION	150,231,737	139,890,346
NATIONAL TOTALS	$ 1,558,474,512	$802,278,000

Table 3

FISCAL YEAR 1993

FTA SECTION 18 FORMULA APPORTIONMENTS AND

RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) ALLOCATIONS

TO THE STATES FOR NONURBANIZED AREAS

STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION	STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION
ALABAMA	2,182,659	89,977	NEBRASKA	883,241	66,177
ALASKA	325,481	55,961	NEVADA	288,365	55,282
AMERICAN SAMOA	46,391	10,850	NEW HAMPSHIRE	763,515	63,984
ARIZONA	1,000,993	68,334	NEW JERSEY	1,091,664	69,995
ARKANSAS	1,744,945	81,960	NEW MEXICO	858,213	65,719
CALIFORNIA	4,258,842	128,004	NEW YORK	3,842,789	120,384
COLORADO	909,093	66,651	NORTH CAROLINA	4,082,177	124,769
CONNECTICUT	824,633	65,104	NORTH DAKOTA	432,903	57,929
DELAWARE	205,726	53,768	NORTHERN MARIANAS	42,991	10,787
FLORIDA	2,737,771	100,145	OHIO	4,155,940	126,120
GEORGIA	3,191,279	108,451	OKLAHOMA	1,753,873	82,124
GUAM	132,065	12,419	OREGON	1,410,653	75,837
HAWAII	358,172	56,560	PENNSYLVANIA	4,635,994	134,912
IDAHO	722,602	63,235	PUERTO RICO	1,385,381	75,374
ILLINOIS	2,904,577	103,200	RHODE ISLAND	177,470	53,251
INDIANA	2,828,208	101,801	SOUTH CAROLINA	2,043,150	87,422
IOWA	1,819,131	83,319	SOUTH DAKOTA	527,675	59,665
KANSAS	1,447,061	76,504	TENNESSEE	2,637,473	98,308
KENTUCKY	2,388,782	93,753	TEXAS	5,568,443	151,992
LOUISIANA	1,975,696	86,187	UTAH	400,007	57,326
MAINE	953,350	67,461	VERMONT	471,787	58,641
MARYLAND	1,190,212	71,800	VIRGIN ISLANDS	100,978	11,850
MASSACHUSETTS	1,275,546	73,363	VIRGINIA	2,338,375	92,829
MICHIGAN	3,454,396	113,270	WASHINGTON	1,638,470	80,010
MINNESOTA	1,987,805	86,408	WEST VIRGINIA	1,393,172	75,517
MISSISSIPPI	1,939,840	85,530	WISCONSIN	2,407,238	94,091
MISSOURI	2,315,281	92,406	WYOMING	336,679	56,167
MONTANA	585,365	60,721			
TOTAL				$ 91,374,518	$ 4,263,604

Table 4

FISCAL YEAR 1993 FTA SECTION 16 APPORTIONMENTS

AMOUNTS ALLOCATED TO STATES

STATE	ALLOCATION	STATE	ALLOCATION
ALABAMA	844,035	NEBRASKA	397,435
ALASKA	167,262	NEVADA	306,129
AMERICAN SAMOA	51,664	NEW HAMPSHIRE	291,460
ARIZONA	748,998	NEW JERSEY	1,382,549
ARKANSAS	602,032	NEW MEXICO	354,455
CALIFORNIA	4,392,269	NEW YORK	3,149,851
COLORADO	590,113	NORTH CAROLINA	1,225,325
CONNECTICUT	670,249	NORTH DAKOTA	234,875
DELAWARE	231,683	NORTHERN MARIANAS	51,520
DISTRICT OF COLUMBIA	230,267	OHIO	2,021,747
FLORIDA	2,977,168	OKLAHOMA	705,104
GEORGIA	1,082,347	OREGON	658,401
GUAM	130,535	PENNSYLVANIA	2,415,856
HAWAII	283,614	PUERTO RICO	626,680
IDAHO	289,287	RHODE ISLAND	317,337
ILLINOIS	1,938,956	SOUTH CAROLINA	682,925
INDIANA	1,036,716	SOUTH DAKOTA	250,375
IOWA	644,144	TENNESSEE	989,220
KANSAS	546,615	TEXAS	2,493,726
KENTUCKY	810,590	UTAH	333,095
LOUISIANA	813,081	VERMONT	214,054
MAINE	351,484	VIRGIN ISLANDS	132,027
MARYLAND	816,733	VIRGINIA	1,027,439
MASSACHUSETTS	1,158,405	WASHINGTON	925,674
MICHIGAN	1,664,814	WEST VIRGINIA	510,022
MINNESOTA	827,673	WISCONSIN	944,210
MISSISSIPPI	586,048	WYOMING	188,177
MISSOURI	1,050,767		
MONTANA	268,783		

TOTAL			$ 48,636,000

Table 5

FISCAL YEAR 1993 FTA INTERSTATE SUBSTITUTE TRANSIT PROJECTS

AMOUNTS APPORTIONED TO WITHDRAWAL AREAS

WITHDRAWAL AREA	FY 1993 APPORTIONMENT
CA SACRAMENTO	$76,864
CA SAN FRANCISCO	2,230,541
CT KILLINGLY	268,650
CT HARTFORD	806,696
DC DISTRICT OF COLUMBIA	81,341
IL CHICAGO	1,665,630
IA WATERLOO	120,146
MD BALTIMORE	17,460,011
MA BOSTON	1,015,646
NJ NEW YORK CITY	89,550
NY ALBANY	31,343
NY NEW YORK CITY	39,898,256
OH CLEVELAND	2,733,514
OR PORTLAND	5,070,769
RI PROVIDENCE	2,168,603
TN MEMPHIS	907,440
TOTAL	$74,625,000

Table 6

FISCAL YEAR 1993 FTA SECTION 3 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONMENT TO AREAS FOR FIXED GUIDEWAY MODERNIZATION

AREA	APPORTIONMENT
New York	$229,144,258
Southwestern Connecticut	30,322,231
Northeastern New Jersey	60,234,911
Chicago/Northwestern Indiana	95,899,864
Philadelphia/Southern New Jersey	69,569,850
Boston	47,581,448
San Francisco	43,198,132
Pittsburgh	14,845,574
Cleveland	10,288,387
Maryland Commuter Rail	10,900,293
New Orleans	1,999,254
SUBTOTAL	$613,984,202
Los Angeles	$4,826,115
Washington, D.C	14,110,775
Seattle, Wa	6,128,151
Atlanta, Ga	5,955,027
San Diego, Ca	2,720,190
San Jose	2,940,529
Providence	1,108,263
Dayton	1,296,381
Tacoma	244,361
Wilmington	375,349
Trenton	611,579
Lawrence-Haverhill	583,626
Chattanooga	37,127
Baltimore	1,474,047
Buffalo	480,153
Portland	1,043,553
Miami	3,338,660
SUBTOTAL	$47,273,886
TOTAL	661,258,088

Table 7

FISCAL YEAR 1993 SECTION 3 NEW START ALLOCATIONS

PROJECT LOCATION AND DESCRIPTION	FY 93 ALLOCATION	PRIOR YEAR UNOBLIGATED ALLOCATION	TOTAL AVAILABLE
CA Los Angeles Metrorail MOS-2 and 3.....	$109,175,000		$109,175,000
CA Los Angeles-San Diego Commuter Rail...		$10,000,000	10,000,000
CA Sacramento LRT Extension...	992,500		992,500
CA San Diego Mid Coast Extension.....	1,687,250	2,398,000	4,085,250
CA San Francisco Airport BART/Tasman LRT.	44,662,500	86,407,428	131,069,928
CA San Jose to Gilroy Commuter Rail.....		8,000,000	8,000,000
CA Vallejo North Bay Ferry.....		8,000,000	8,000,000
FL Jacksonville ASE Extension.....	9,925,000	5,120,001	15,045,001
FL Miami Metromover Extension.....	5,393,245	45,338,350	50,731,595
FL Miami Urban Initiative	2,154,718		2,154,718
FL Orlando OSCAR Streetcar.....	1,985,000	510,000	2,495,000
FL Tri-County Commuter Rail.....	4,639,938		4,639,938
GA Atlanta MARTA North Line Ext.....	29,775,000		29,775,000
GA Atlanta Buckhead People Mover.....		200,000	200,000
HI Honolulu Rapid Transit Starter Line...	75,926,250		75,926,250
IL Chicago Central Area Connector.....	21,090,625	19,191,002	40,281,627
ME Portland-Boston Commuter Rail.....	25,308,750		25,308,750
MD Commuter Rail.....	9,925,000		9,925,000
MD Baltimore LRT Extension.....	24,812,500	16,869,590	41,682,090
MA So. Boston Piers Transitway.....	37,963,125		37,963,125
MI Detroit LRT.....		10,000,000	10,000,000
MO Kansas City Phase I LRT.....		1,132,000	1,132,000
MO St. Louis METRO Link and Extensions...	42,181,250	6,050,000	48,231,250
NJ Urban Core.....	64,939,275	95,900,000	160,839,275
NJ Lakewood-Matawan Commuter Rail.....	2,977,500	1,800,000	4,777,500
NJ Hawthorne-Warwick Commuter Rail.....	4,466,250	35,710,000	40,176,250
NJ Hudson Waterfront.....		17,570,440	17,570,440
NJ Newark Airport Rail Link.....		4,960,075	4,960,075
NY Buffalo Naval Park Station.....		808,935	808,935
NY Queens Connection.....	15,775,788		15,775,788
NY Staten Island Midtown Ferry		1,000,000	1,000,000
OH Cleveland Dual Hub Corridor.....	1,488,750	8,959,030	10,447,780
OR Portland Westside LRT	67,490,000		67,490,000
OR Portland Joint Devel.-Banfield.....		13,408,620	13,408,620
PA Philadelphia Cross-County Commuter Rail	694,750	510,000	1,204,750
PA Pittsburgh Busway.....	16,872,500	7,680,000	24,552,500
TN Chattanooga Trolley.....		1,000,000	1,000,000
TX Dallas South Oak Cliff LRT.....	42,181,250	40,380,000	82,561,250
TX Dallas/Ft. Worth Railtran Commuter Rail		2,480,000	2,480,000
TX Houston Regional Bus Plan.....	33,745,000	155,030,975	188,775,975
UT Salt Lake City LRT.....	2,977,500	11,476,030	14,453,530
WA Seattle-Tacoma Commuter Rail.....	15,185,250	5,120,000	20,305,250
TOTAL ALLOCATION	$716,391,463	$623,010,476	$1,339,401,939

Table 8

FISCAL YEAR FTA 1993 SECTION 3 BUS ALLOCATIONS

ISTEA ALLOCATION ADJUSTED	
MI State	$9,925,000
PA Altoona(Bus Testing)	1,985,000
FY 1993 CONFERENCE EARMARKS (ADJUSTED)	
AZ Tucson	$3,254,318
CA Los Angeles	12,203,694
CA Sacramento	6,700,067
CA San Francisco(MUNI)	14,357,287
CO Denver	11,284,827
CO Eagle County	1,148,583
FL Key West	1,856,876
FL Miami	14,644,433
GA Atlanta	3,828,609
IN State	7,729,006
IN Lafayette	1,129,440
IA Des Moines	12,203,694
KS Wichita	3,254,318
MD State	21,057,354
MO Kansas City	12,538,697
MO St. Louis	813,580
NJ State(security)	3,254,318
NJ Atlantic City	17,085,172
NM Rio Rancho	325,432
NM Santa Fe	325,432
NY College Point/Queens	6,508,636
NY Nassau County	7,729,006
NY Niagara Frontier Transp. Auth	6,125,776
NC State	13,017,274
OH Columbus	4,067,898
OH Miami Valley	12,203,694
OR Eugene	3,350,034
OR Lane County	4,517,760
OR Medford	2,033,949
PA Erie	4,067,898
PA Robinson Town Center	8,135,795
PR San Juan	5,742,915
TN Chattanooga	13,400,135
TN Memphis	6,834,068
TX Brazos Transit System	10,026,172
TX Corpus Christi	4,690,047
TX Dallas	21,153,069

FY 1993 CONFERENCE EARMARKS (ADJUSTED)	
TX El Paso	5,647,201
UT Salt Lake City	5,168,623
VA Fairfax County	7,647,648
WA Chelan-Douglas	1,914,305
WI State	14,644,433
Fuel cell buses	4,881,477
TOTAL	$334,412,950

FISCAL YEAR 1992 AND PRIOR YEAR UNOBLIGATED EARMARKS

AREA	PRIOR YEAR EARMARK
AZ Tucson	8,000,000
AR Eureka Springs	$63,600
CA Lake Tahoe	1,200,000
CA San Francisco (Pac. Med. Ctr.)	2,500,000
CA San Francisco (Bart Dublin)	12,600,000
IA Cedar Rapids	937,500
MD State	1,582,440
MI State	10,500,000
MN Minneapolis (91 earmark)	8,000,000
NJ State	21,000,000
NC Raleigh	311,000
OR Eugene	3,500,000
PA Philadelphia	4,000,000
TN Chattanooga	995,000
TN Memphis	1,350,000
TN Memphis	1,700,000
TN Nashville	3,700,000
TX Brazos Valley	9,584,636
TX Dallas	7,500,000
WA Spokane	4,200,000
WI Madison (90 earmark)	2,493,000
Fuel cell bus	7,000,000
TOTAL	$104,717,176

Table 9

FISCAL YEAR 1993 FTA SECTION 8 AND SECTION 26(a)(2) APPORTIONMENTS

STATE	SECTION 8 APPORTIONMENT FOR MPO'S	SECTION 26(a)(2) APPORTIONMENT FOR STATE PLAN/RESEARCH
Alabama	$331,541	$84,852
Alaska	153,000	38,750
Arizona	580,789	122,485
Arkansas	153,000	38,750
California	6,320,238	1,174,401
Colorado	496,936	109,656
Connecticut	425,281	113,247
Delaware	153,000	38,750
District of Columbia	204,296	38,750
Florida	1,974,919	469,354
Georgia	716,322	150,370
Hawaii	153,000	38,750
Idahc	153,000	38,750
Illinois	2,259,178	391,005
Indiana	564,427	124,176
Iowa	168,188	43,472
Kansas	192,848	46,974
Kentucky	240,330	58,884
Louisiana	438,000	102,748
Maine	153,000	38,750
Maryland	920,920	165,163
Massachusetts	1,083,998	218,147
Michigan	1,470,219	268,049
Minnesota	572,904	109,339
Mississippi	153,000	38,750
Missouri	705,610	128,329
Montana	153,000	38,750
Nebraska	153,000	38,750
Nevada	163,507	42,016
New Hampshire	153,000	38,750
New Jersey	1,886,206	305,729
New Mexico	153,000	38,750
New York	3,841,812	650,979
North Carolina	434,345	115,884
North Dakota	153,000	38,750
Ohio	1,360,824	306,995
Oklahoma	240,127	62,457
Oregon	280,262	65,488
Pennsylvania	1,908,997	332,383
Rhode Island	165,658	38,750
South Carolina	246,344	65,796
South Dakota	153,000	38,750
Tennessee	395,607	102,286
Texas	2,539,816	524,445
Utah	225,804	60,853
Vermont	153,000	38,750
Virginia	816,820	176,613
Washington	666,827	148,252
West Virginia	153,000	38,750
Wisconsin	557,791	113,664
Wyoming	153,000	38,750
Puerto Rico	404,309	98,009
TOTAL.....	$38,250,000	$7,750,000

Table 10

Federal Transit Administration - Unit Values of Data
Fiscal Year 1993 Formula Grant Apportionments

Section 9 - Bus Tier:

Urbanized Areas Over 1,000,000:

Population	$1.64903180
Population × Density	$0.00042295
Bus Revenue Vehicle Mile	$0.25627328

Urbanized Areas Under 1,000,000:

Population	$1.49026818
Population × Density	$0.00065631
Bus Revenue Vehicle Mile	$0.33911204

Bus Incentive (PM denotes Passenger Mile):

Bus PM × Bus PM / Operating Cost =	$0.00219008

Section 9 - Fixed Guideway Tier:

Fixed Guideway Revenue Vehicle Mile	$0.33712405
Fixed Guideway Route Mile	$21,877.00
- Commuter Rail Floor	$3,373,569

Fixed Guideway Incentive:

Fixed Guideway PM × Fixed Guideway PM / Operating Cost =	$0.00033359
- Commuter Rail Incentive Floor	$154,900

Section 9 - Urbanized Areas Under 200,000:

Population	$2.69152019
Population × Density	$0.00134560

Section 18 - Non-Urbanized Areas:

Population	$0.99183766

Section 3 - Fixed Guideway Modernization:

Legislatively Specified Areas:

	Tier 3	Tier 4
Revenue Vehicle Mile	$0.0305292	$0.0724036
Route Mile	$2,157.46	$4,814.27

Other Areas:

Revenue Vehicle Mile	$0.2401680	$0.0724036
Route Mile	$10,900.88	$4,814.27

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federal register

Wednesday
October 14, 1992

Part VI

The President

Proclamation 6487—Veterans Day, 1992

Proclamation 6488—In Celebration of the 200th Anniversary of the White House

Proclamation 6489—Energy Awareness Month, 1992

Proclamation 6490—National Children's Day, 1992

Federal Register
Vol. 57, No. 199
Wednesday, October 14, 1992

Presidential Documents

Title 3—

The President

Proclamation 6487 of October 8, 1992

Veterans Day, 1992

By the President of the United States of America

A Proclamation

"The soldier, above all other people, prays for peace," said General Douglas MacArthur, "for he must suffer and bear the deepest wounds and scars of war." It is fitting that we pause on the anniversary of Armistice Day, a day dedicated to peace, to honor those Americans who answered our Nation's call to duty when the United States had no choice but to fight for the principles we cherish.

As we Americans go about our day-to-day activities, from a busy shift at work to a quiet evening with family and friends, we seldom think of the individuals who walked in the very shadow of death in order to preserve our way of life. Yet were it not for our veterans, who endured the terrifying scream of bombs and sirens and the haunting sight of bodies broken in battle, we might well not enjoy the liberty and security we share today—blessings we all too often take for granted. Our comfort has come at the cost of many a veteran's youth and health; our freedom, through the sacrifices of those who faced capture, imprisonment, and even torture, in the defense of freedom. From the victors of World War I and survivors of the infamous Bataan Death March to the service members who returned from a hundred lesser-known trials during and since World War II, America's veterans have earned all of the respect and gratitude that we express on this occasion. These Americans do not seek glory, any more than they sought the hellish test of war; however, they do ask—rightly—that their great cause be honored and remembered.

While Veterans Day is dedicated to all those who have served in our country's uniform, including veterans of more recent conflicts in Southeast Asia, Panama, and the Persian Gulf, during this 50th anniversary of World War II we remember especially those who helped to defeat the expansionist aims of Nazi Germany and Imperial Japan. Before time deprives us of their living history forever, we do well to learn from these veterans and from their eyewitness accounts of the Allied struggle against tyranny and aggression. World War II veterans know firsthand of the importance of a strong, united America, and their lifelong patriotism should remain an inspiration for generations to come. While the events of a half-century ago may seem remote today, they in fact hold lessons of eternal value: the first of which is that our Nation is only as great as the character and convictions of her people; our freedom, only as certain as our moral and military capacity to preserve it.

Today many veterans are helping to maintain a strong America by supporting our present-day Armed Forces, by promoting civic education and patriotism among youth, and by helping them to recognize the difference between liberty and license, between just, democratic peace and the mere absence of war. By demonstrating the virtues of discipline, selflessness, and courage far beyond the field of battle, America's veterans continue to provide outstanding service to the cause of freedom.

On this occasion, let us offer a heartfelt salute to each and every U.S. veteran, especially those who are ill or hospitalized. Let us renew our pledge to obtain the fullest possible accounting for our POWs and MIAs and convey our respect to the brave families of those still missing. Finally, let us remember throughout the year that our freedom—and that of millions of people around the globe—would not be possible without our veterans' service and sacrifice.

In order that we may pay due tribute to those who have served in our Armed Forces, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor America's veterans.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim Wednesday, November 11, 1992, as Veterans Day. I urge all Americans to honor our veterans through appropriate public ceremonies and private prayers. I also call on Federal, State and local government officials to display the flag of the United States and to encourage and participate in patriotic activities in their communities. I urge civic and fraternal organizations, churches, schools, businesses, unions, and the media to support this national observance with suitable programs and activities.

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

George Bush

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Billing code 3195-01-M

Presidential Documents

Proclamation 6488 of October 9, 1992

In Celebration of the 200th Anniversary of the White House

By the President of the United States of America

A Proclamation

The home of our Nation's Presidents is a house that truly belongs to the American people, and as we commemorate the 200th anniversary of the laying of the White House cornerstone, we also celebrate the great system of democratic government that this historic building symbolizes to our Nation and the world.

Although the White House cornerstone was dedicated on October 13, 1792, the story of the famous home at 1600 Pennsylvania Avenue actually begins with the framing of our Constitution several years earlier. In Article 1, Section 8, of that great document, our Nation's Founders provided for the establishment of a special district to serve "as the Seat of the Government of the United States." Under the direction of President George Washington, a site was selected for the Federal City in January 1791, and the district eventually began to take shape according to the grand vision of Major Pierre Charles L'Enfant, who submitted his plans to the Congress in December of that year. In early 1792, the Commissioners for the District of Columbia advertised a nationwide competition for the design of the President's house. They chose the entry of Irish-born architect James Hoban, perhaps mindful of President Washington's recommendation that "for the President's house, I would design a building that should also look forward, but execute no more of it at present than might suit the circumstances of this country, when it shall be first wanted."

President Washington never inhabited the White House, but when it was occupied by President John Adams and his family in 1800, Abigail Adams wrote to her sister that the stately yet unfinished "castle of a house" appeared "built for ages to come." In its beauty and elegance, the White House looked forward with all the exuberance and optimism of our young Republic. At the same time, however, its simple balance of form and function reflected an unpretentious spirit befitting our system of limited government and representative democracy.

The White House underwent a number of changes and additions in succeeding years, with President Thomas Jefferson and architect Benjamin Henry Latrobe designing its terraces and interior, respectively. In 1814, the building was nearly destroyed by fire when British forces invaded the city of Washington, and today Dolley Madison's rescue of Gilbert Stuart's famous portrait of George Washington, along with her husband's papers, is a celebrated part of White House history and folklore. Sadly, the exterior sandstone walls and interior brickwork were all that remained of the White House when James Hoban was asked to begin its reconstruction. Not until the Presidency of Andrew Jackson some 40 years after the laying of the cornerstone was the White House truly completed with the building of the north portico.

Since that time, the White House has experienced two major renovations—one in 1902 and another from 1948–1952. During the latter renovation, James Hoban's wood structure was entirely rebuilt, yet within its original sandstone and brick walls, and today the White House continues to appear much as it did during the days of John Adams and Thomas Jefferson. Engineers and historians have worked hard to honor original schemes for the design and

decoration of the White House, and succeeding Administrations have taken an increasing interest in the preservation of this historic home. In recent years the White House Historical Association, which was chartered in 1961, has played a leading role in funding the conservation of the priceless antiques and paintings that furnish the White House, and this year restoration of its exterior features will be complete.

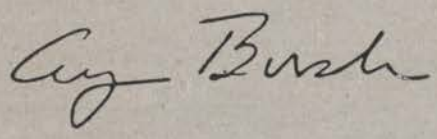
Our Nation's Founders would be proud of the enduring beauty of "the President's house," just as they would be delighted by the continuing success of their great experiment in self-government. Because the White House represents such an important part of our American heritage, it has been included as a unit of our National Park System since 1933. More than 1 million people tour this magnificent home each year, in addition to the countless visitors who pause nearby to view its grounds and to reflect on its storied past. Much of our Nation's history has passed through these walls, and it is here that much of our future will be shaped as well.

On this 200th anniversary of the White House, as we celebrate the past and look forward—as did our ancestors—to the ages to come, we do well to repeat the timeless prayer of President John Adams, the first resident of this important home:

> I pray Heaven to bestow the best of blessings
> on this house and all that shall hereafter
> inhabit it. May none but honest and wise
> men ever rule under this roof.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby encourage all Americans to join in celebrating the 200th anniversary of the laying of the White House cornerstone on October 13, 1992.

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



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Presidential Documents

Proclamation 6489 of October 9, 1992

Energy Awareness Month, 1992

By the President of the United States of America

A Proclamation

From the cars we drive to the utilities that heat and illuminate our homes, schools, and hospitals, we Americans depend on safe, reliable sources of energy for our personal mobility and comfort. At the same time, because it is vital to keeping our farms, factories, and defense systems functioning smoothly, we also depend on secure, reasonably priced energy for our economic productivity and national security.

Nearly 2 years ago, as part of our comprehensive efforts to ensure America's competitiveness and strength, we set forth our National Energy Strategy. Developed over more than one and a half years of public recommendations and government study, this strategy constitutes a blueprint for action to increase the United States' energy security, to promote economic growth and jobs, and to protect the environment. In addition to calling for the prudent development of all of our Nation's energy resources, including oil, natural gas, and nuclear energy, this plan also calls for increased use of alternative fuels such as compressed natural gas, ethanol, and methanol. It provides incentives for the development of new technology for oil and gas exploration, and it encourages the development and use of renewable sources of energy such as geothermal, solar, and hydroelectric power. Recognizing the imperative to balance our economic and energy security needs with our responsibility to protect the environment, our National Energy Strategy also calls for more efficient energy production and vigorous conservation efforts. Significant progress has been made in implementing the broad range of initiatives proposed in the Strategy, including a number requiring new legislation.

The United States is blessed with vast energy resources and with the skill to use them wisely. The public and private investments that we make in research and development oriented toward new energy technology will pay tremendous dividends for American consumers by providing access to the safe, reliable energy we need—and at a fraction of the cost paid by consumers in other parts of the world. Hence, the focus of this year's Energy Awareness Month is "Energy Technology for a Competitive America." This theme accentuates the need to mobilize American know-how and common sense toward the goal of better energy production, transportation, and use.

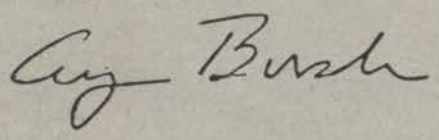
Earlier this year, we launched the National Technology Initiative, a program to stimulate research and development and to facilitate the transfer of exciting new technologies from our government laboratories to the private sector. As part of this initiative, the Federal Government has entered into a number of partnerships with industry to accelerate the pace of development of technology that will reduce America's dependence on insecure supplies of energy and limit the impact of energy production and use on our air, land, and water.

Clearly, we can implement the sound energy policies and practices that are vital to our Nation's security and competitiveness—if we continue to enlist the cooperation of business and industry leaders, energy providers, consumers, educators, and public officials at the Federal, State, and local levels of government. Toward that end, the United States Department of Energy will be

working this month to increase public awareness of America's energy needs, as well as the energy options that are available to us.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 1992 as Energy Awareness Month. I urge all Americans to observe this month with appropriate educational programs and activities.

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



[FR Doc. 92-25099
Filed 10-13-92; 10:17 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6490 of October 9, 1992

National Children's Day, 1992

By the President of the United States of America

A Proclamation

Every child is a tremendous blessing in his or her own right, a person of unlimited worth and unique potential. Together, however, America's children constitute our most precious national resource. Their future and the future of the United States depend on our efforts to ensure that every child receives the material, emotional, and spiritual support that he or she needs to become a healthy, well-adjusted, and responsible adult. On National Children's Day, as we honor America's youngest citizens, we renew our commitment to providing the best possible care and protection for each of them.

Clearly, the most important contribution that we can make to the well-being of America's children is to preserve and strengthen the family. Problems such as drug and alcohol abuse, violence, crime, and adolescent promiscuity—all can be traced, in large part, to a breakdown in traditional family life and values. Statistics on poverty likewise bear tragic evidence of the impact of broken homes on children: today the poverty rate among families headed by married couples is 5.7 percent; among families where fathers are absent, the poverty rate is 33.4 percent—more than five times higher. Such facts underscore the urgency of restoring traditional values in the United States and the stable, loving family life that they help foster.

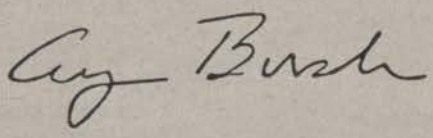
While government must not and cannot fulfill the primary responsibility of parents in caring for their children, it can assist them in their vital task. During the past year, we have strengthened Federal child support enforcement efforts, achieving more than $6 billion in additional collections of support owed. With the help of Federal waivers, a number of States have launched reforms of welfare programs that are designed to promote parental responsibility and to help keep families intact. There exist numerous programs at the Federal, State, and local levels to assist dysfunctional families and families that are struggling through periods of unemployment, illness, and other challenges. Yet, we also know that millions of American families seek only the freedom and opportunities to thrive—freedom from onerous tax burdens, freedom from cultural forces that undermine or belittle their most cherished beliefs, and opportunities to make real choices about education, child care, and housing.

Just as government must recognize and reinforce the family as the primary source of love and support that every child needs, each of us has a duty to address the challenges faced by youth and families today. Religious congregations, schools, and community organizations all have a role in maintaining an environment in which families can thrive and in which young people can enjoy the security of childhood while also learning about the meaning of love and responsibility—and the difference between liberty and license. By working together in support of children and parents, we can strengthen and enrich our larger human family.

In honor of children and in recognition of the importance of their well-being to our communities and Nation, the Congress, by Senate Joint Resolution 319, has designated the second Sunday in October of 1992 as "National Children's Day" and has 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 Sunday, October 11, 1992, as National Children's Day. I call on all Americans to observe this day with appropriate programs and activities in honor of children and in recognition of the importance of promoting their well-being through stable, loving family life.

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



[FR Doc. 92-25104
Filed 10-13-92; 10:32 am]
Billing code 3195-01-M

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Vol. 57 No. 199

Wednesday, October 14, 1992

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102d Congress, 2nd Session, 1992

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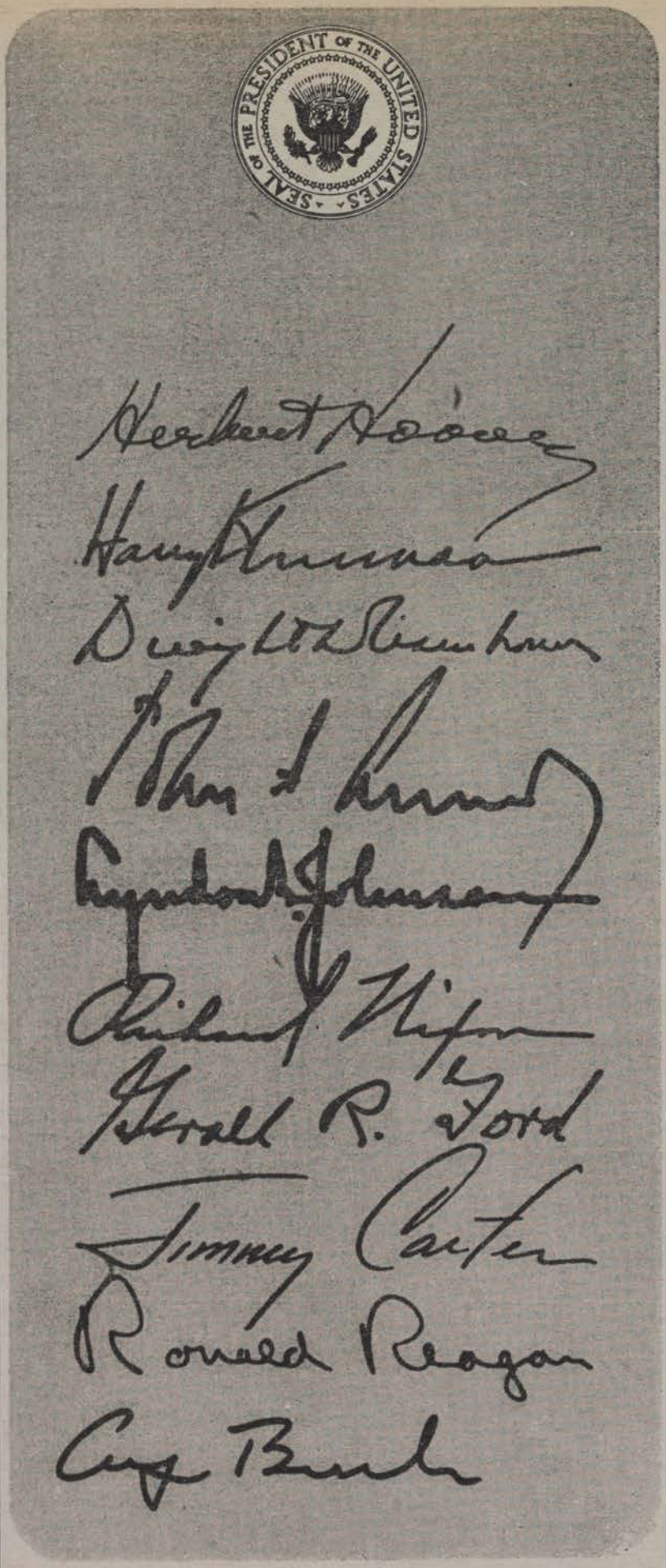
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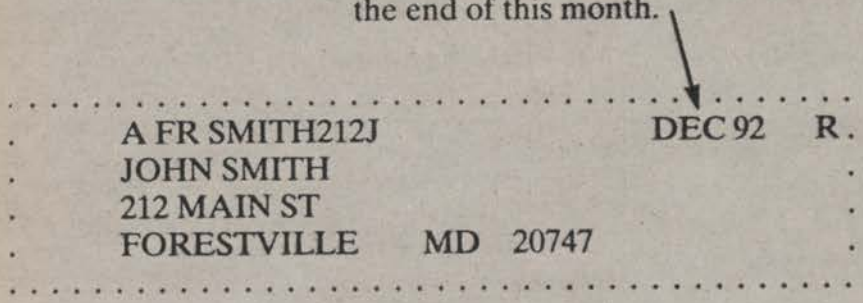
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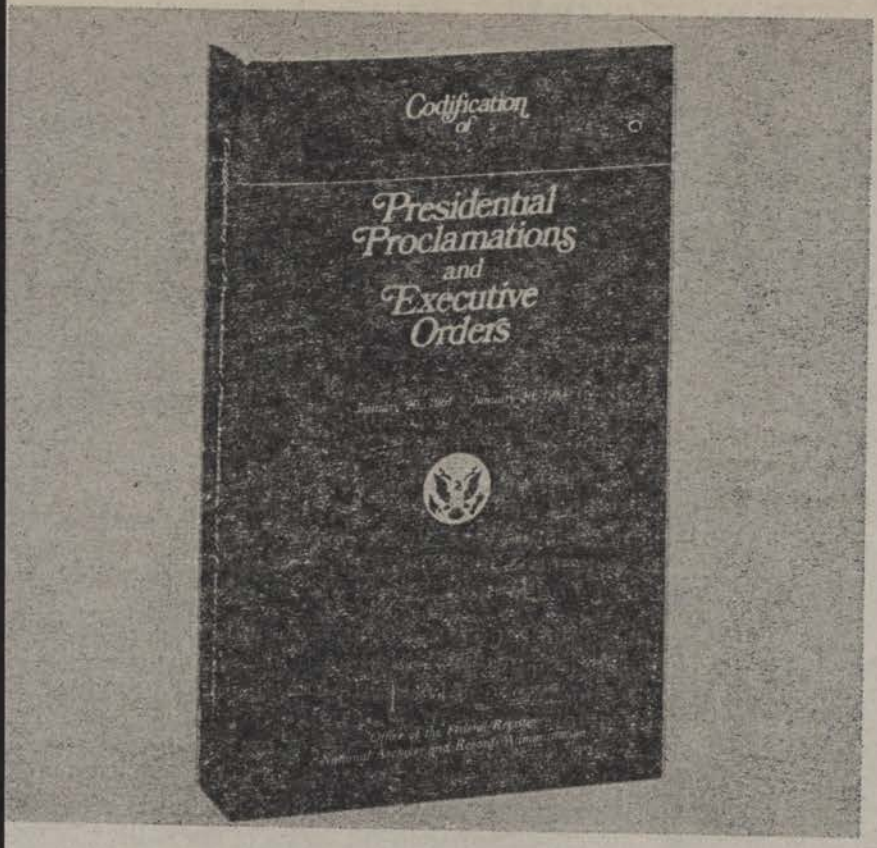
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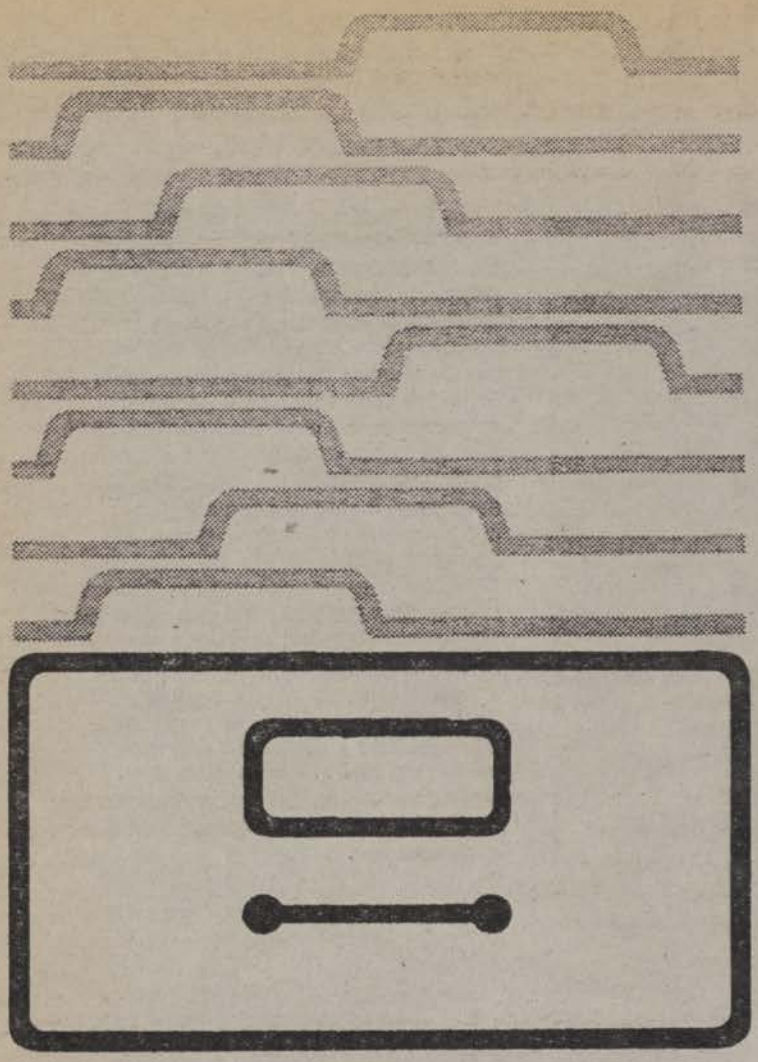
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