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Friday
November 9, 1990

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

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: November 27, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
WHO: Donna Rickett, Doris Tucker.
RESERVATIONS: Karen, Ruth
202–523–5240
Accept 90 reservations.

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

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV-90-205]

Florida Tomatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 966 for the 1990–91 fiscal period. Authorization of this budget permits the Florida Tomato Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1990, through July 31, 1991.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

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

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

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

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

There are approximately 50 handlers of Florida tomatoes under this marketing order and 250 tomato producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,00. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1990–91 fiscal period was prepared by the Florida Tomato Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are producers of tomatoes. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input.

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

The committee met on September 6, 1990, and unanimously recommended a 1990–91 budget of $1,964,000. Last season's budget was $1,613,500. The major expense allocation is for education and promotion projects, which at a total of $1,268,000 accounts for about 65 percent of the budget. Other major budget items include administrative expenses in the amount of $384,500 and research expenses of $216,500.

The committee also unanimously recommended an assessment rate of $0.035 per 25-pound container, an increase of $0.01 from last year's rate. This rate, when applied to anticipated shipments of 55 million 25-pound containers, will yield $1,925,000 in assessment revenue. This amount, when added to $45,000 from interested and other income, will be more than adequate to cover budgeted expenses.

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

A proposed rule was published in the **Federal Register** on October 10, 1990 (55 FR 41195). This document contained a proposal to add § 966.228 to authorize expenses for the committee. That rule provided that interested persons could file comments through October 22, 1990. No comments were received.

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

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1990–91 fiscal period began in August, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable tomatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

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

PART 966—TOMATOES GROWN IN FLORIDA

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

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

2. A new § 966.228 is added to read as follows:

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

§ 966.228 Expenses and assessment rate.

Expenses of $1,964,000 by the Florida Tomato Committee are authorized and an assessment rate of $0.035 per 25-pound container of tomatoes is established for the fiscal period ending July 31, 1991. Unexpended funds may be carried over as a reserve.

Dated: November 5, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–26560 Filed 11–8–90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–96–AD; Amendment 39–6804]

Airworthiness Directives: Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which requires inspection and replacement, if necessary, of undersized wires installed in the number 1 window heat system; and reporting to the FAA of any undersized wires detected. This amendment is prompted by two reports of the installation of undersized wires in the flight compartment window heat system that resulted in overheating and discoloration of the wire and protective sleeving. This condition, if not corrected, could result in failure of the number 1 window heat system, damage to other equipment, and/or smoke and fire.

EFFECTIVE DATE: December 17, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commerical Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Slotte, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2797. *Mailing address:* FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 757 series airplanes, which requires inspection and replacement, if necessary, of undersized wires installed in the number 1 window heat system; and reporting to the FAA of any undersized wires detected, was published in the **Federal Register** on June 15, 1990 (55 FR 24252).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter questioned the need to issue an AD on which there is no known service problems. This commenter suggested that a "less formal" request to inspect, such as an Action Notice or bulletin to the FAA Principal Maintenance Inspectors, in lieu of an AD, would be more appropriate. The commenter considered that to be less of a burden to the operators while at the same time accomplishing the same objectives. The FAA does not concur. As discussed in the NPRM the FAA has determined that an unsafe condition exists, which warrants the issuance of an AD. To ensure that appropriate action is taken to correct the unsafe condition, an AD is necessary. An AD is also the means by which the FAA informs foreign authorities and operators of the unsafe condition.

Several commenters requested additional time to accomplish the required inspection. They suggested that the inspections be scheduled during a "C" check, which is equivalent to approximately 16 months for these operators. Their reasoning for this request is that, although the required inspection itself takes very little time, if a discrepancy is found, then replacement of the wiring could only be accomplished during an extended hold at a maintenance base. The FAA does not concur with this request. Continued use of the number 1 window heat system with AWG 22 size wire installed poses a hazard to the system itself, as well as, to the adjoining wires in the bundle in which they are routed. Any number of systems could be damaged from overheating of the window heat wires.

The FAA has determined that the compliance time of 90 days, as proposed, represents the maximum interval of time allowable for the affected airplanes to continue to operate prior to the required inspection/replacement without compromising safety. Since regular maintenance schedules (i.e., for a C–check) may vary from operator to operator, there would be no assurance that the inspection will be accomplished within that time.

Since issuance of the NPRM, the FAA has reviewed and approved Revision 2 of Boeing Service Bulletin 757–30–0015, dated August 2, 1990. This revision corrects certain minor discrepancies contained in Revision 1 and adds specific instructions for installing additional sleeving to certain replaced wires. Paragraph A. of the final rule has been revised to specify this revision to the service bulletin as the appropriate information source. Paragraph A. has also been revised to delete the special instructions specified in proposed paragraph A.2., since those instructions are now contained in the revised service bulletin.

Paragraph C of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described above. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 204 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 123 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,840.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions

of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 757 series airplanes, as listed in Boeing Service Bulletin 757-30-0015, Revision 1, dated January 25, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect undersized wiring in the flight compartment number 1 window heat system, accomplish the following:

A. Within 90 days after the effective date of this AD, inspect for the presence of undersized wires in the number 1 window heat system, in accordance with Boeing Service Bulletin 757-30-0015, Revision 2, dated August 2, 1990. If undersized wires are found, prior to further flight, replace with wires of appropriate size, in accordance with Boeing Service Bulletin 757-30-0015, Revision 2, dated August 2, 1990.

B. Within 30 days after detecting any undersized wires, submit a report of findings to the Manager, Manufacturing Inspection District Office, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

This amendment becomes effective December 17, 1990.

Issued in Seattle, Washington, on October 31, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26572 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-140-AD; Amendment 39-6805]

Airworthiness Directives; Fokker Model F-28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Fokker Model F-28 series airplanes, which currently requires repetitive eddy current inspections to detect cracks in the fuselage lap joint at stringer 73 between frame 5305 and frame 9305, and repair, if necessary. Cracking in this area, if not corrected, could result in reduced structural integrity of the fuselage. This amendment would require a permanent repair of the lap joint at stringer 73 between frame 4900 and frame 9805, and terminates the requirement for the repetitive inspections. This amendment is prompted by the development of a permanent lap joint repair scheme.

EFFECTIVE DATE: December 17, 1990.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. *Mailing address:* FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89-17-02, Amendment 39-6284 (54 FR 31808, August 2, 1989), applicable to certain Fokker Model F-28 series airplanes, to require a permanent repair of the lap joint at stringer 73 between frame 4900 and frame 9805, and terminate the requirement for the repetitive inspections, was published in the **Federal Register** on August 14, 1990 (55 FR 33131).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

One commenter requested that the effective date of the AD be no earlier than December 31, 1990. This operator has 45 airplanes ranging from 11,868 to 39,369 cycles. At this time, none of this operator's 45 airplanes have been reworked. The FAA does not concur with this request. Considering the potential for fatigue failure of the lap joint, the FAA has determined that the interval proposed is the maximum inspection time permissible without compromising air safety.

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

It is estimated that 48 airplanes of U.S. registry will be affected by this AD, that it will take approximately 260 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for required parts is $3,165. Based on these figures, the total cost impact of

the AD on U.S. operators is estimated to be $651,120.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–6284 (54 FR 31808, August 2, 1989), AD 89–17–02, with the following new airworthiness directive:

Fokker: Applies to Model F–28 series airplanes, Serial Numbers 11003 to 11241, inclusive, and 11991 and 11992, certificated in any category.

Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the fuselage, accomplish the following:

A. For airplanes Serial Numbers 11008 through 11241: Inspect the fuselage lap joint at stringer 73 between frames 5305 and 9305, in accordance with part 1 of Fokker Service Bulletin F–28/53–A94, Revision 1, dated July 5, 1989, and with the following schedule:

1. For airplanes that accumulated 32,000 landings or more as of August 18, 1989 (the effective date and Amendment 39–6284, AD 89–17–02), inspect within 2 days after August 18, 1989.

2. For airplanes that have accumulated fewer than 32,000 landings as of August 18, 1989, inspect within 60 days after August 18, 1989, or prior to the accumulation of 20,000 landings, whichever occurs later.

B. Repeat the inspections required by paragraph A. of this AD at intervals not to exceed 1,000 landings.

C. If cracks are found, repair prior to further flight, in accordance with part 2 of Fokker Service Bulletin F28/53–A94, Revision 1, dated July 5, 1989. After repair, continue to inspect in accordance with part 1 of the service bulletin, at intervals not to exceed 1,000 landings.

D. Replace the lap joint at stringer 73 between frames 4900 through 9805, in accordance with the accomplishment instructions in Fokker Service Bulletin F28/53–95, Revision 1, dated February 16, 1990, according to the schedule below. Accomplishment of this modification terminates the requirement for the repetitive inspections required by paragraphs B. and C. of this AD.

1. For airplanes, Serial Numbers 11008 through 11241, inclusive: Prior to the accumulation of 30,000 landings, or within one year after the effective date of this AD, whichever occurs later.

2. For airplanes, Serial Numbers 11003, 11004, 11006, 11991, and 11992: prior to the accumulation of 50,000 landings, or within one year after the effective date of this AD, whichever occurs later.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39–39–6284, AD 89–17–02.

This amendment becomes effective December 17, 1990.

Issued in Renton, Washington, on October 31, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–26571 Filed 11–8–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Bureau of Export Administration

15 CFR Parts 30 and 786

[Docket No. 900812–0212]

Shipper's Export Declaration: Combining General License and Validated License Commodities on the Same SED

AGENCY: Bureau of the Census and Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: Section 786.3(h) of the Export Administration Regulations (15 CFR parts 730–799) contains certain requirements for listing commodities on the Shipper's Export Declaration (SED). Previously, § 786.3(h)(1) contained a general prohibition against combining general license commodities and validated license commodities on the same SED. This interim rule amends § 786.3(h) to permit exporters to list general license commodities and validated license commodities on the same SED. The rule also revises § 786.3(h) to clarify that the commodities that may be listed on the same SED must be included in one shipment on board a single carrier and must be from the same exporter to the same consignee.

This change—which is made in response to a recommendation by the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee—will reduce the paperwork burden for exporters by decreasing the number of SEDs that must be filed. Exporters will no longer be required to file separate SEDs for general license commodities and validated license commodities.

By agreement with the Foreign Trade Division, Bureau of the Census, U.S. Department of Commerce, this rule also removes the requirement for separate declarations in § 30.6(b) of the Census Bureau's Foreign Trade Statistics Regulations (15 CFR part 30).

DATES: *Effective date:* This rule is effective November 9, 1990.

Comment date: Comments must be received by January 8, 1991.

ADDRESSES: Written comments (six copies) should be sent to: Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, room 1622, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Willard Fisher, Regulations Branch, Bureau of Export Administration, telephone: (202) 377-3856.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule contains a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection—which reduces the paperwork burden by not requiring that separate Shipper's Export Declarations be filed for general license and validated license commodities—has been approved by the Office of Management and Budget under control number 0607-0018. The public reporting burden for this collection of information is estimated to average eleven minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Security and Management Support, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503—Attn: Paperwork Reduction Project (0607-0018).

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in the effective date, are inapplicable because this regulation involves a foreign and military affairs function. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the matters relating to these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close January 8, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. Accordingly, the Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address, or by calling (202) 377-2593.

5. This interim rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

6. As stated, *supra*, in the summary, this rule removes the requirement for separate declarations in § 30.6(b) of the Census Bureau's Foreign Trade Statistics Regulations (FTSR).

List of Subjects

15 CFR Part 30

Economic statistics, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 786

Exports, Reporting and recordkeeping requirements.

Accordingly, part 30 of the Foreign Trade Statistics Regulations (15 CFR part 30) and part 786 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

PART 30—[AMENDED]

1. The authority citation for 15 CFR part 30 continues to read as follows:

Authority: Title 13, United States Code, sections 301-307; and title 5 United States Code, section 301; Reorganization Plan No. 5 of 1950; Department of Commerce Order No. 35-2A, August 4, 1975, 40 FR 42765.

§ 30.6 [Amended]

2. Section 30.6 is amended by removing and reserving paragraph (b).

PART 786—[AMENDED]

1. The authority citation for 15 CFR part 786 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986). Secs. 203, 205, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704); Executive Order No. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

2. Section 786.3 is amended by revising paragraph (h) to read as follows:

§ 786.3 Shipper's export declaration.

* * * * *

(h) *Commodities that may be listed on the same declaration*—(1) *General.* Except as described in paragraph (h)(2) of this section, commodities may be listed on the same Declaration provided

that they are contained in one shipment on board a single carrier and are from the same exporter to the same consignee. Unless the commodities are being shipped in separate vehicles, as described in paragraph (h)(2) of this section, general license commodities and validated license commodities may be combined on the same Declaration. The applicable validated license number and/or general license symbol shall be listed in the designated space on the Declaration (see § 786.3(j)). An asterisk (*) shall be placed immediately to the left of the description of any general license commodity listed on a Declaration that combines validated and general license commodities.

(2) *Exception.* Separate Declarations are required for shipments by rail, truck, or other vehicle when more than one vehicle is used to make the shipment. This requirement may be waived by Customs Directors if a shipment is made under a single bill of lading or other loading document and all the commodities listed on the Declaration are cleared simultaneously.

* * * * *

Dated: October 31, 1990.

Michael P. Galvin,

Assistant Secretary for Export Administration.

Dated: October 31, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90-26537 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Part 773

[Docket No. 90911-9211]

Change in Reporting Requirements for the Special Licenses

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for public comment.

SUMMARY: In order to facilitate the export of commodities requiring a validated license, the Bureau of Export Administration (BXA) has established a series of special licensing procedures that may be used, when appropriate, in lieu of the individual export license.

BXA is amending the reporting requirements for certain of the special licenses in part 773 of the Export Administration Regulations. This rule removes the requirement that exporters submit certain reports to the Office of Export Licensing (OEL), unless specified by OEL. This rule does not remove the requirement that exporters maintain certain records, but extends the retention period of these records from two years to five years.

DATES: This rule is effective February 7, 1991. Comments must be received by December 10, 1990.

ADDRESSES: Written comments (six copies) should be sent: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Regulations Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule contains reporting and recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Information requirements found at § 773.2(f)(1) and § 773.3(h)(1) have previously been approved by the Office of Management and Budget (OMB) under Control Numbers 0607-0018 and 0694-0015, respectively. This rule also imposes a new recordkeeping requirement and it has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act. Other collections that are affected by this action have been approved by OMB under Control Numbers 0694-0002 and 0694-0006. Public burden for the collections contained within the rulemaking are estimated to average 11 minutes for 0607-0018, 30 minutes for 0694-0015, and 1 minute for the new recordkeeping requirement. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing this burden, to the Office of Security and Management Support, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503—Attn: Paperwork Reduction Project (0607-0018, and 0694-0015).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. The rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, this rule is being published in interim form, and an opportunity for public comment is provided. Because this rule is being issued in interim form, comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close December 10, 1990. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the

Bureau of Export Administration Freedom of Information Records Facility, room 4086, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-2593.

List of Subjects in 15 CFR Part 773

Exports, Reporting and recordkeeping requirements.

Accordingly, part 773 of the Export Administration Regulations (15 CFR parts 730-799) is amended as follows:

1. The authority citation for 15 CFR part 773 jis revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, Pub. L. 99-64 of July 12, 1985 and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986.) Sec. 203, 205, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704); Executive Order No. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

2. In § 773.2 paragraph (f)(1) is revised to read as follows:

§ 773.2 Project license.

* * * * *

(f) *Export clearance.*—(1) *Shipper's Export Declaration.* The Shipper's Export Declaration covering an export made under a Project License shall be prepared in accordance with standard instructions. Although the Project License and amendments describe the commodities only by commodity groups, commodity descriptions on the Declaration shall show specifically the commodity description conforming to the applicable Commodity Control List description and incorporating any additional information where required by Schedule B; *e.g.*, type, size, name of specific commodity, etc. In addition, the Declaration shall include the Project License number. A copy of the Shipper's Export Declaration shall be prepared and be retained by the exporter for recordkeeping purposes for a period of five years (see § 787.13(e)). The Office of Export Licensing may require submission of copies of the Shippers Export Declarations upon notification.

* * * * *

3. In § 773.3, paragraph (h)(1) is revised to read as follows:

§ 773.3 Distribution license.

* * * * *

(h) *Special documentation for specific destination.*—(1)*Export by license holders.* A Swiss Blue Import Certificate or Yugoslav End-Use Certificate, as appropriate, covering distribution or use within Switzerland or Yugoslavia, must be obtained from the respective government and forwarded to the license holder before any export is made to these destinations. The license holder shall maintain records of all completed certificates and for partially used certificates maintain a record summarizing the partial shipments for each certificate. Records for partial shipments shall include the certificate number, the quantity and dates of any partial shipments, and the balance remaining unused. The Office of Export Licensing may requires submission of these documents upon notification. Records for this special documentation requirement shall be maintained by the license holder for a period of five years (see § 787.13(e)).

* * * * *

4. In § 773.7, paragraph (e) and the first sentence of (k) introductory text are revised to read as follows:

§ 773.7 Service supply procedure.

* * * * *

(e) *Exports and reexports to Switzerland or Yugoslavia.* For an export or reexport of spare and replacement parts to service equipment located in Switzerland or Yugoslavia, the U.S. exporter or his approved service facility, or the authorized foreign manufacturer, must obtain for each transaction a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate showing the United States as the country of origin of the parts to be shipped. Exporters shall maintain these records for a period of five years (see § 787.13(e)). Approved foreign service facilities shall forward, on a quarterly basis, the originals of these documents (or reproduce copies if the originals are required by the government of the country in which the Form ITA-6052P holder is located) directly to the U.S. exporter. A letter of transmittal showing the SL License number of the approved Form ITA-6052P shall accompany the documents. Authorized foreign manufacturers are required to maintain appropriate records. The Office of Export Licensing may requires the exporter or foreign manufacturer to submit these documents upon notification.

* * * * *

(k) *Reports.* Each exporter who has been issued an SL License under the provisions of § 773.7(f)(1) shall prepare, on a yearly basis, a report on all exports made during the preceding year under the SL License (OMB Approval No. 0694-0002). The Office of Export Licensing may require submission of documents upon notification.

* * * * *

Dated: November 5, 1990.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 90-26523 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 141

[T.D. 90-87]

RIN 1515-AA96

Blanket Release Orders

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to permit the use of blanket release orders by carriers in appropriate circumstances. A 1987 amendment to the regulations which eliminated several Customs forms also inadvertently eliminated all references to blanket release orders. It had not been the intention that the orders be eliminated. In order to clarify the status of these orders, this amendment of the regulations will expressly permit use of blanket release orders.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: John Pfeifer, Office of Cargo Enforcement, U.S. Customs Service (202) 566-5354.

SUPPLEMENTARY INFORMATION:

Background

In 1987, as part of an ongoing effort to streamline its operations, the Customs Service issued T.D. 87-75 which eliminated Customs forms that were determined to require the submission of information already provided to Customs by other means. Among the

forms which were eliminated was CF 7529, entitled "Carrier's Certificate and Release Order". It had been determined that this form was unduly burdensome because the information sought on that form could be supplied in another manner using existing trade documentation as prescribed in 19 CFR 141.11(a).

Unfortunately, blanket release orders as prescribed in 19 CFR 141.11(a)(5) and 141.111(c) specifically required the filing of a CF 7529. When T.D. 87-75 was issued, this fact was overlooked. It had not been Customs intent to disallow the use of blanket release orders in appropriate situations. A blanket release order is a right-to-make-entry document for formal or informal entry procedures. It can be effective for the duration specified in the document.

Customs is now amending the regulations to specifically permit the use of blanket release orders by carriers. The regulations permit appropriately modified bills of lading or air waybills to be used as blanket release orders.

A notice of proposed rulemaking was published in the **Federal Register** on April 3, 1990 (55 FR 12385). No comments were received in response to the proposal. Accordingly, this final rule is being issued as proposed.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 141

Customs duties and inspection; Imports.

Amendments to the Regulations

Part 141, Customs Regulations (19 CFR part 141) is amended as set forth below:

PART 141—ENTRY OF MERCHANDISE

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

Authority: 19 U.S.C. 66, 1448, 1484, 1624. Subpart B also issued under 19 U.S.C. 1483;

* * * * *

2. Section 141.11 is amended by removing the designation "Reserved" in paragraph (a)(5), and adding a new paragraph (a)(5) to read as follows:

§ 141.11 Evidence of right to make entry for importations by common carrier.

(a) * * *

(5) A blanket carrier's release order on an appropriately modified bill of lading or air waybill covering any or all shipments which will arrive within the district on the carrier's conveyance during the period specified in the release order.

* * * * *

3. Section 141.111 is amended by adding a new paragraph (c) to read as follows:

§ 141.111 Carrier's release order.

* * * * *

(c) *Blanket release order.* Merchandise may be released to the person named in the bill of lading or air waybill in the absence of a specific release order from the carrier, if the carrier concerned has filed a blanket order authorizing release to the owner or consignee in such cases. A carrier's certificate in the form shown in § 141.11(a)(4), may be modified and executed to make it a blanket release order for the shipments covered by a blanket carrier's release order under § 141.11(a)(5).

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: October 24, 1990.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 90-26586 Filed 11-8-90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to functions performed by the Center for Devices and Radiological Health (CDRH) to change the name of the Office of Compliance where it appears in the delegations to the Office of Compliance and Surveillance, to conform with the reorganization approved by the Director, Office of Management, Public Health Service, and published in the **Federal Register** of February 9, 1989 (54 FR 6339). This final rule also delegates additional authorities to CDRH officials in the Office of Compliance and Surveillance.

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: FDA is amending seven delegations of authority under 21 CFR part 5, relating to functions assigned to CDRH to delegate additional authorities to CDRH officials in the Office of Compliance and Surveillance. The redelegation is designed to make the CDRH approval process more efficient.

FDA is adding the Director, Division of Standards Enforcement, Office of Compliance and Surveillance to the list of officials authorized to act in § 5.37 *Issuance of reports of minor violations* (21 CFR 5.37), paragraph (b); § 5.89 *Notification of defects in, and repair or replacement of, electronic products* (21 CFR 5.89), paragraph (b); and § 5.91 *Dealer and distributor direction to provide data to manufacturers of electronic products* (21 CFR 5.91).

Also, FDA is adding the Director, Division of Compliance Operations, Office of Compliance and Surveillance, to the list of officials authorized to act in § 5.45 *Imports and exports* (21 CFR 5.45), paragraph (e).

Finally, FDA is adding the Director, and Deputy Director, Office of Compliance and Surveillance to the list of officials authorized to act in § 5.46 *Manufacturer's resident import agents* (21 CFR 5.46); § 5.59 *Approval, disapproval, or withdrawal of approval of applications for investigational device exemptions* (21 CFR 5.59), paragraph (a); and § 5.89 *Notification of defects in, and repair or replacement of, electronic products* (21 CFR 5.89), paragraph (a).

In addition, FDA is changing the name of the Office of Compliance, CDRH, to the Office of Compliance and Surveillance, CDRH, in the 12 regulations in which the former name appears.

Further redelegation of the authority is not authorized. Authority delegated to a position by title may be exercised by a

person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 264, 263b–263n, 263, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.22 is amended by revising paragraphs (a)(9)(iii) and (a)(9)(iv) to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(9) * * *

(iii) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

(iv) The Director, Division of Compliance Operations, Office of Compliance and Surveillance, CDRH.

* * * * *

3. Section 5.23 is amended by revising paragraphs (c)(2) and (c)(3) to read as follows:

§ 5.23 Disclosure of official records.

* * * * *

(c) * * *

(2)The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

(3) The Director, Division of Product Surveillance, Office of Compliance and Surveillance, CDRH.

* * * * *

4. Section 5.37 is amended by revising paragraphs (a)(2)(ii), (a)(2)(iii), (b)(2) and (b)(3), by redesignating paragraph (b)(4) as paragraph (b)(5), and by adding new paragraph (b)(4) to read as follows:

§ 5.37 Issuance of reports of minor violations.

(a) * * *

(2) * * *

(ii) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

(iii) The Director, Division of Compliance Operations, Office of Compliance and Surveillance, CDRH

* * * * *

(b) * * *

(2) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

(3) Director, Division of Compliance Operations, Office of Compliance and Surveillance, CDRH.

(4) The Director, Division of Standards Enforcement, Office of Compliance and Surveillance, CDRH.

* * * * *

(5) Section 5.45 is amended by revising paragraphs (b) introductory text, (b)(4), (c)(2), and (e)(1)(ii), by redesignating paragraphs (e)(1)(iii) and (e)(1)(iv) as paragraph (e)(1)(iv) and (e)(1)(v) respectively, and by adding new paragraph (e)(1)(iii) to read as follows:

§ 5.45 Imports and exports.

* * * * *

(b) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH); the Director and Deputy Director, Office of Compliance and Surveillance, CDRH; Regional Food and Drug Directors; District Directors; and the Director, St. Louis Branch, are authorized, under section 360 of the Public Health Service Act (PHSA), to perform the following functions or to designate officials to:

* * * * *

(4) Refuse or grant permission and time extensions to bring noncomplying products into compliance with the PHSA in accordance with a corrective action plan approved by the Director, Office of Compliance and Surveillance, CDRH.

(c) * * *

(2) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

* * * * *

(e) * * *

(1) * * *

(ii) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

(iii) The Director, Division of Compliance Operations, Office of Compliance and Surveillance, CDRH.

* * * * *

6. Section 5.46 is revised to read as follows:

§ 5.46 Manufacturer's resident import agents.

The Director and Deputy Director, Center for Devices and Radiological Health (CDRH) and the Director and Deputy Director, Office of Compliance and Surveillance, CDRH, are authorized to reject manufacturer's designations of import agents under § 1005.25(b) of this chapter.

7. Section 5.47 is amended by revising paragraph (a)(2) to read as follows:

§ 5.47 Detention of adulterated or misbranded medical devices.

* * * * *

(a) * * *

(2) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

* * * * *

8. Section 5.59 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 5.59 Approval, disapproval, or withdrawal of approval of applications for investigational device exemptions.

(a) * * *

(1) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH), the Director, Deputy Director, and Associate Director, Office of Device Evaluation, CDRH, and the Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

* * * * *

(b) For medical devices assigned to their respective divisions, the Division Directors, Office of Device Evaluation, CDRH, are authorized to approve, disapprove, or withdraw approval of applications for investigational device exemptions submitted under section 520(g) of the act.

9. Section 5.86 is amended by revising paragraph (b) to read as follows:

§ 5.86 Variances from performance standards for electronic products.

* * * * *

(b) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

* * * * *

10. Section 5.87 is amended by revising paragraph (b) to read as follows:

§ 5.87 Exemption of electronic products from performance standards and prohibited acts.

* * * * *

(b) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

* * * * *

11. Section 5.88 is revised to read as follows:

§ 5.88 Testing programs and methods of certification and identification for electronic products.

The Director and Deputy Director, Center for Devices and Radiological Health (CDRH), and the Director and Deputy Director, Office of Compliance and Surveillance, CDRH, are authorized to review and evaluate industry testing programs under section 358(g) of the Public Health Service Act (the act), and to approve or disapprove alternate methods of certification and identification and to disapprove testing programs upon which certification is based under section 358(h) of the act.

12. Section 5.89 is amended by revising the introductory text of both paragraphs (a) and (b) to read as follows:

§ 5.89 Notification of defects in, and repair or replacement of, electronic products.

(a) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH), and the Director and Deputy Director, Office of Compliance and Surveillance, CDRH, are authorized to perform all functions of the Commissioner of Food and Drugs, relating to notification of defects in, noncompliance of, and repair or replacement of or refund for, electronic products under section 359 of the Public Health Service Act (the act) and under §§ 1003.11, 1003.22, 1003.31, 1004.2, 1004.3, 1004.4, and 1004.6 of this chapter; and Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, are authorized to perform all such functions relating to:

* * * * *

(b) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH, and the Director, Division of Standards Enforcement, Office of Compliance and Surveillance, CDRH, are authorized to notify manufacturers of defects in, and noncompliance of, electronic products under section 359(e) of the act and under § 1003.11(a) of this chapter; and the chiefs of District Compliance Branches are authorized to perform all such functions relating to:

* * * * *

13. Section 5.91 is revised to read as follows:

§ 5.91 Dealer and distributor direction to provide data to manufacturers of electronic products.

The Director and Deputy Director, Center for Devices and Radiological Health (CDRH), the Director and Deputy Director, Office of Compliance and Surveillance, CDRH, and the Director, Division of Standards Enforcement, Office of Compliance and Surveillance, CDRH, are authorized to direct dealers and distributors of electronic products to furnish information on first purchasers of such products to the manufacturer of the product under section 360A(f) of the Public Health Service Act.

Dated: November 2, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-26530 Filed 11-8-90; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 89F-0481]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyisobutylene and isobutylene/isoprene copolymers as components of food-contact materials sterilized with a hydrogen peroxide solution. This action responds to a petition filed by Exxon Chemical Co.

DATES: Effective November 9, 1990; written objections and requests for a hearing by December 10, 1990.

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

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-335), 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 6, 1989 (54 FR 50436), FDA announced that a petition (FAP 9B4176) had been filed by Exxon Chemical Co., P.O. Box 45, Linden, NJ 07036, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of polyisobutylene and isobutylene/isoprene copolymers as components of food-contact materials sterilized with a hydrogen peroxide solution.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe and that the regulations should be amended in § 178.1005(e)(1) in the table by alphabetically adding a new entry as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before December 10, 1990 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

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

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

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

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

2. Section 178.1005 is amended in the table of paragraph (e)(1) by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.1005 Hydrogen peroxide solution.

* * * * *

(e) * * *

(1) * * *

Substances	Limitations
* * * * *	
Isobutylene polymers.	Complying with § 177.1420 (a)(1) and (a)(2) of this chapter.
* * * * *	

* * * * *

Dated: November 1, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-26531 Filed 11-8-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

Control, Custody, Care, Treatment and Instruction of Inmates Grooming

CFR Correction

In title 28 of the Code of Federal Regulations, revised as of July 1, 1990, on page 872, § 551.3 was incorrectly revised. The text printed at 55 FR 6181, February 21, 1990, was a proposed revision. The correct text of the section as published in title 28 revised as of July 1, 1989, reads as follows:

§ 551.3 Hairpieces.

(a) A female inmate may wear a wig or hairpiece.

(b) A male inmate may not wear an artificial hairpiece.

BILLING CODE 1505-01-D

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Chapter 99

Cost Accounting Standards Board; Establishment of Rules and Procedures

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Federal Procurement Policy, Cost Accounting Standards Board, today establishes rules and procedures for the conduct of its operations. The Board is established pursuant to section 5 of the Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 422. Section 5(f)(3) of that Act, 41 U.S.C. 422(f)(3) requires the Administrator for Federal Procurement Policy, after consultation with the Board, to prescribe rules and procedures governing actions of the Board. The Administrator today gives notice that he has consulted with the Members of the Board, and that by consensus the Board has adopted the following rules and procedures pursuant to the cited statutory authority.

DATES: This rule is effective November 9, 1990. Comments on the Board's interim rules must be in writing and must be received by January 8, 1991.

ADDRESSES: Comments should be addressed to the Office of Federal Procurement Policy, Cost Accounting Standards Board, 725 17th Street NW., room 9001, Washington, DC 20503. ATTN: CASB Docket #90-02.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Acting Executive Secretary and Counsel, Cost Accounting Standards Board (telephone: 202-395-3300).

SUPPLEMENTARY INFORMATION:

A. Background

Section 5 of Public Law 100-679, "The Office of Federal Procurement Policy Act Amendments of 1988" reestablished the Cost Accounting Standards Board as an independent board within the Office of Federal Procurement Policy. The Board consists of five members, including the Administrator for Federal Procurement Policy, who serves as Chairman. The Board has the exclusive statutory authority to make, promulgate, amend, and rescind cost accounting standards and interpretations thereof designed to achieve uniformity and consistency in the cost accounting practices governing measurement, assignment and allocation of costs to contracts with the United States.

Section 5(f)(3) of the Office of Federal Procurement Policy Act Amendments requires the Administrator, after consultation with the Board, to prescribe rules and procedures governing actions of the Board. The statute requires that such rules and procedures mandate that any cost accounting standard promulgated, amended, or rescinded (and interpretations thereof) shall be adopted by majority vote of the Board Members.

The rule promulgated today sets forth the operational rules and procedures of the Cost Accounting Standards Board. It does not promulgate, rescind or modify any existing Standards. Such Cost Accounting Standards, including any waivers, exemptions, interpretations, modifications, rules and regulations promulgated by the previous Cost Accounting Standards Board under the authority of section 719 of the Defense Production Act of 1950, 50 U.S.C. app. 2168, shall remain in effect unless and until amended, superseded or rescinded by the Board pursuant to the authority of section 5 of Public Law 100-679.

The public is further advised that today's rulemaking is purely administrative in nature, and in no way affects the application (including thresholds) of existing cost accounting standards to government contracts. In particular, the public is advised that § 9901.306, entitled "Standards applicability," should in no way be construed as modifying existing dollar thresholds for cost accounting standards applicability, or the application of the standards to non-defense contracts. The standards as codified at 48 CFR part 30, and 4 CFR part 331, *et seq.*, remain in full force and effect, until amended, modified or superseded by the Cost Accounting Standards Board.

The previous Cost Accounting Standards Board completed its work in establishing basic Cost Accounting Standards, and subsequently ceased operations on September 30, 1980. After that time, the General Accounting Office (GAO) sponsored the continued publication of CASB regulations (45 FR 79409 December 1, 1980). To reflect this GAO sponsorship, the heading of

chapter III of title 4 was changed in the 1981 edition of the CFR from "Cost Accounting Standards Board" to "General Accounting Office (CASB)."

The recodification of the existing sets of Cost Accounting Standards, including any changes in applicability or dollar thresholds, will be the subject of a future rulemaking by the Board.

B. Paperwork Reduction Act

The Paperwork Reduction Act, Public Law 96-511, does not apply to this rulemaking because this rule does not impose any reporting, recordkeeping or collection of information requirements on offerors, contractors or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.* These rules and procedures relate solely to the internal organization and operation of the Cost Accounting Standards Board.

C. Executive Order 12291 and the Regulatory Flexibility Act

This regulation governs the operation of the Cost Accounting Standards Board. The economic impact of establishing and operating the Board is expected to be minor. Therefore, the Chairman has determined that this is not a "major rule" under Executive Order 12291, and that a regulatory impact analysis is not required. Furthermore, this regulation will not have a significant effect on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

List of Subjects in 48 CFR Part 9901

Government procurement, Cost accounting standards.

For the reasons set out in the preamble, chapter 99 of title 48 of the Code of Federal Regulations is established consisting at this time of part 9901 as set forth below.

Dated: October 30, 1990.

Allan V. Burman,

Administrator for Federal Procurement Policy and Chairman, Cost Accounting Standards Board.

CHAPTER 99—COST ACCOUNTING STANDARDS BOARD, OFFICE OF FEDERAL PROCUREMENT POLICY, OFFICE OF MANAGEMENT AND BUDGET

PART 9900—[RESERVED]

SUBCHAPTER A—ADMINISTRATION

PART 9901—RULES AND PROCEDURES

Sec.
9901.301 Purpose
9901.302 Authority.
9901.303 Offices.
9901.304 Membership.
9901.305 Requirements for standards and interpretive rulings.
9901.306 Standards applicability.
9901.307 Exemptions and waivers.
9901.308 Meetings.
9901.309 Quorum.
9901.310 Board action.
9901.311 Executive sessions.
9901.312 Minutes.
9901.313 Public hearings.
9901.314 Informal actions.
9901.315 Executive Secretary.
9901.316 Files and records.
9901.317 Amendments.

Authority: Pub. L. 100-679, 102 Stat. 4056, 41 U.S.C. 422.

§ 9901.301 Purpose.

This part is published in compliance with Public Law 100-679, section 5(f)(3), 41 U.S.C. 422(f)(3), and constitutes the rules and procedures of the Cost Accounting Standards Board.

§ 9901.302 Authority.

(a) The Cost Accounting Standards Board (hereinafter referred to as the "Board") is established and operates in compliance with Public Law 100-679.

(b) The Board has the exclusive regulatory authority to make, promulgate, amend, and rescind cost accounting standards, and interpretations thereof, designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States Government.

(c) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations previously promulgated under section 719 of the Defense Production Act of 1950 (50 U.S.C. app. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to Public Law 100-679.

§ 9901.303 Offices.

The Cost Accounting Standards Board's offices are located in the New Executive Office Building, 725 17th Street NW., Washington, DC 20503. The hours of business for the Board are 9 a.m. to 5:30 p.m., local time, Monday through Friday, excluding holidays observed by the Federal Government in Washington, DC.

§ 9901.304 Membership.

The Board consists of five members, including the Administrator of the Office of Federal Procurement Policy (hereinafter referred to as the "Administrator") who shall serve as Chairman, and four other members with experience in Government contract cost accounting who are to be appointed as follows:

(a) A representative of the Department of Defense appointed by the Secretary of Defense.

(b) An officer or employee of the General Services Administration appointed by the Administrator of the General Services Administration or his/her designee.

(c) A representative of industry appointed from the private sector by the Administrator.

(d) An individual who is particularly knowledgeable about cost accounting problems and systems appointed from the private sector by the Administrator.

(e) The term of office of each of the members of the Board, other than the Administrator, shall be four years, with the exception of the initial appointments of members. Of the initial appointments to the Board, two members shall hold appointment for a term of two years, one shall hold appointment for a term of three years, and one shall hold appointment for a term of four years.

(f) The members from the Department of Defense and the General Services Administration shall not be permitted to continue to serve on the Board after ceasing to be an officer or employee of their respective appointing agency. A vacancy on the Board shall be filled in the same manner in which the original appointment was made. A member may be reappointed for a subsequent term(s). Any member appointed to fill an interim vacancy on the Board shall serve for the remainder of the term for which his or her predecessor was appointed.

(g) In the event of the absence or incapacity of the Administrator or during a vacancy in the office, the official of the Office of Federal Procurement Policy, acting as Administrator, shall serve as the Chairman of the Board.

(h) In the event of the absence of any of the other Board members, a representative of that Board member may attend the Board meeting, but shall have no vote, and his or her attendance shall not be counted to establish a quorum.

§ 9901.305 Requirements for standards and interpretive rulings.

Prior to the promulgation of cost accounting standards and interpretations thereof, the Board shall:

(a) Take into account, after consultation and discussion with the Comptroller General and professional accounting organizations, contractors and other interested parties:

(1) The probable costs of implementation, including inflationary

effects, if any, compared to the probable benefits;

(2) The advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

(3) The scope of, and alternatives available to, the action proposed to be taken.

(b) Prepare and publish a report in the **Federal Register** on issues reviewed under paragraph (a) of this section.

(c) Publish an advance notice of proposed rulemaking in the **Federal Register** in order to solicit comments on the report prepared pursuant to paragraph (c) of this section, and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments. During this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make.

(d) Publish a notice of such proposed rulemaking in the **Federal Register** and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

(e) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended by the Board, shall have the full force and effect of law and shall become effective within 120 days after publication in the **Federal Register** in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of affected contractors or subcontractors after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended by the Board shall be accompanied by prefatory comments and by illustrations, if necessary.

(f) The above functions exercised by the Board are excluded from the operations of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

§ 9901.306 Standards applicability.

Cost Accounting Standards promulgated by the Board shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States Government in excess of $500,000, other than contracts or subcontracts that have been exempted by the Board.

§ 9901.307 Exemptions and waivers.

The Board may exempt classes or categories of contractors and subcontractors from cost accounting standards requirements, and establish procedures for waiver of the requirements with respect to individual contracts and subcontracts. The official records of the Board shall be documented with supporting justification for class or category exemptions and individual waivers.

§ 9901.308 Meetings.

The Board shall meet at the call of the Chairman. Agenda for Board meetings shall be proposed by the Chairman, but any Board member may request any item to be placed on the agenda.

§ 9901.309 Quorum.

Three Board members, at least one of whom is appointed by the Administrator from private life, shall constitute a quorum of the Board.

§ 9901.310 Board action.

Board action shall be by majority vote of the members present and voting, except that any vote to publish a proposed standard, rule or regulation in the **Federal Register** for comment or any vote to promulgate or adopt a standard, rule or regulation, or any interpretation thereof, shall require at least three affirmative votes of the five Board members. The Chairman may vote on all matters presented for a vote, not merely to resolve tie votes. The results of final votes shall be reported in the minutes of the meeting, and the vote of a Board member may be recorded at his/her request.

§ 9901.311 Executive sessions.

During the course of a Board meeting, any Board Member may request that for any portion of the meeting, the Board meet in executive session. The Chairman shall thereupon order such a session.

§ 9901.312 Minutes.

The Executive Secretary of the Board shall be responsible for keeping accurate minutes of Board meetings and maintaining Board files.

§ 9901.313 Public hearings.

Public hearings to assist the Board in the development and explanation of cost accounting standards and interpretive rulings may be held to the extent the Board in its sole discretion deems desirable. Notice of such hearings shall be given by publication in the **Federal Register**.

§ 9901.314 Informal actions.

The Chairman may take actions on behalf of the Board on administrative issues, as determined by the Chairman, without holding an official meeting of the members. However, details of the actions so taken shall be provided to all of the members at the next Board meeting following such actions. Board members may be polled by telephone on other issues that must be processed on a timely basis when such matters cannot be deferred until the next formal meeting of the Board.

§ 9901.315 Executive Secretary.

The Board's staff of professional, technical and supporting personnel is directed and supervised by the Executive Secretary.

§ 9901.316 Files and Records.

The files and records of the Board shall be maintained in accordance with the *Federal Records Creation, Maintenance, and Disposition Manual* of the Executive Office of The President, Office of Administration. As a minimum, the files and records shall include:

(a) A record of every Board meeting, including the minutes of Board proceedings and public hearings.

(b) Cost accounting standards promulgated, amended, or rescinded and interpretations thereof along with the supporting documentation and applicable research material.

(c) Applicable working papers, memoranda, research material, etc. related to issues under consideration by the Board and/or previously considered by the Board.

(d) Substantive regulations and statutes of general applicability and general policy and interpretations thereof.

(e) Any other file or record deemed important and relative to the duties and responsibilities of the Board.

§ 9901.317 Amendments.

This part 9901, Rules and Procedures, may be amended by the Chairman, after consultation with the Board.

[FR Doc. 90-26605 Filed 11-8-90; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 371

Fraser River Sockeye and Pink Salmon Fisheries

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

ACTION: Notice of inseason orders.

SUMMARY: The Secretary of Commerce (Secretary) hereby publishes the inseason orders regulating fisheries in U.S. waters that were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by the Secretary during the 1990 sockeye and pink salmon fisheries within the Fraser River Panel Area. These orders established fishing times, areas, and types of gear for U.S. treaty Indian and all-citizen fisheries during the period the Commission exercised jurisdiction over these fisheries.

Due to the frequency with which inseason orders are issued, publication of individual orders is impracticable. Therefore, the 1990 orders are being published together in this notice.

EFFECTIVE DATES: Each of the following inseason orders of the Secretary was effective upon announcement on telephone hotlines as specified at 50 CFR 371.21(b)(1).

ADDRESSES: Comments on these inseason orders may be sent to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150; or Robert R. Vreeland, 206-526-6144.

SUPPLEMENTARY INFORMATION: The Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631-3644.

Under authority of the Act, regulations were promulgated at 50 CFR part 371 (51 FR 23420, June 27, 1986) to provide a framework for implementation of certain regulations of the Commission and inseason orders of the Commission's Panel for sockeye and pink salmon fisheries in the Fraser River Panel Area (U.S.). The regulations apply to the Fraser River Panel Area (U.S.) during the period each year when the Commission exercises jurisdiction over these fisheries.

The regulations close the Fraser River Panel Area (U.S.) to sockeye and pink salmon fishing unless opened by Panel regulations or by inseason orders of the Secretary that give effect to Panel orders, unless such orders are determined not to be consistent with domestic legal obligations. During the fishing season, the Secretary may issue orders that establish fishing times and areas consistent with the annual Commission regime and inseason orders of the Panel. Such orders must be consistent with domestic legal obligations. The Secretary issues inseason orders through his delegate, the Northwest Regional Director of NMFS. Official notice of these inseason actions of the Secretary is provided by two telephone hotlines described at 50 CFR 371.21(b)(1). Inseason orders of the Secretary must be published in the **Federal Register** as soon as practicable after they are issued. Due to the frequency with which inseason orders are issued, publication of individual orders is impracticable. The 1990 orders are being published in this notice for the convenience of the public.

The following inseason orders were adopted by the Panel and issued for U.S. fisheries by the Secretary during the 1990 fishing season. The times listed are local times, and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220-22.

Order no. 1990-1: Issued 8:10 p.m., July 17, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 12 noon, July 18 to 12 noon, July 21.

Order no. 1990-2: Issued 1:30 p.m., July 20, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 12 noon, July 22 to 12 noon, July 26.

Order no. 1990-3: Issued 11:30 a.m., July 24, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 12 noon, July 26 to 12 noon, July 29.

Order no. 1990-4: Issued 1:15 p.m., July 27, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 12 noon, July 29 to 12 noon, August 2.

Order no. 1990-5: Issued 12:20 p.m., July 30, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 12 noon, August 2 to 12 noon, August 4.

Order no. 1990-6: Issued 2 p.m., August 3, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 12 noon, August 4 to 12 noon, August 9.

Areas 6, 7 and 7A—Net fishing open 4 a.m. to 8 p.m., August 7.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7 and 7A—Reef nets remain closed.

Purse seines open 6 a.m. to 1 p.m., August 8.

Gill nets open 1:30 p.m. to 8:30 p.m., August 8.

Order no. 1990-7: Issued 3 p.m., August 6, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 12 noon, August 9 to 12 noon, August 12.

Order no. 1990-8: Issued 4:15 p.m., August 9, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Closed to drift gill nets effective 4:15 p.m., August 9.

Order no. 1990-9: Issued 1:30 p.m., August 10, 1990.

Treaty indian and all-citizen fisheries: Areas 4B, 5, 6, 6C, 7 and 7A—Remain closed to net fishing.

Order no. 1990-10: Issued 1 p.m., August 13, 1990.

Referred only to fishing in Canadian area Panel Waters.

Order no. 1990-11: Issued 1:30 p.m., August 17, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Remain closed to net fishing.

Areas 6, 7 and 7A—Open to net fishing 5 a.m., August 20 to 9 a.m., August 21.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7 and 7A—Reef nets open 5 a.m. to 9 p.m., August 19. Gill nets open 2 p.m., August 21 to 7 a.m., August 22.

Purse seines open 6 a.m. to 9 p.m., August 22.

Order no. 1990-12: Issued 2:45 p.m., August 20, 1990.

Referred only to fishing in Canadian area Panel Waters.

Order no. 1990-13: Issued 12 noon, August 21, 1990.

Referred only to fishing in Canadian area Panel Waters.

Order no. 1990-14: Issued 3:05 p.m., August 22, 1990.

Referred only to fishing in Canadian area Panel Waters.

Order no. 1990-15: Issued 3:30 p.m., August 24, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 5 a.m. to 1 p.m., August 31.

Areas 6, 7 and 7A—Open to net fishing 5 a.m. to 1 p.m., August 31.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7 and 7A—Remain closed to reef net fishing. Purse seines open 6 a.m. to 2 p.m., August 30.

Gill nets open 2 p.m. to 10 p.m., August 30.

Order no. 1990-16: Issued 2:05 p.m., August 27, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 4 a.m. to 4 p.m., August 29.

Areas 6, 7 and 7A—Open to net fishing 4 a.m. to 4 p.m., August 29.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7 and 7A—Purse seines open 6 a.m. to 12 noon, August 28.

Gill nets open 1 p.m. to 9 p.m., August 28.

Order no. 1990-17: Issued 3:20 p.m., August 29, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill net fishing extended from 4 p.m., August 29 to 9 a.m. August 30.

Areas 6, 7 and 7A—Net fishing extended from 4 p.m., August 29 to 9 a.m., August 30.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7 and 7A: Reef nets open 5 a.m. to 9 p.m., September 2.

Order no. 1990-18: Issued 1:15 p.m., August 31, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Drift gill nets open 1 p.m., September 1 to 9 p.m., September 3.

Areas 6, 7 and 7A—Net fishing open 1 p.m., September 1 to 9 p.m., September 3.

All-citizen fishery: Areas 6, 7 and 7A—Reef nets open 5 a.m. to 9 p.m., September 1.

Gill nets open 12 noon to 12 midnight, September 5.

Order no. 1990-19: Issued 2:55 p.m., September 3, 1990.

Treaty indian fishery: Areas 4B, 5 and 6C—Relinquished regulatory control effective 9 p.m., September 3.

Areas 6, 7 and 7A—Net fishing extended from 9 p.m., September 3 to 9 p.m., September 4.

All-citizen fishery: Areas 6, 7 and 7A—Reef nets open 5 a.m. to 9 p.m., September 4.

Gill nets open 12 noon to 12 midnight, September 5.

Order no. 1990-20: Issued 10:40 a.m., September 5, 1990.

All-citizen fishery: Areas 6, 7 and 7A (South of the Iwersen's dock Line)—Gill nets open 12 noon to 12 midnight, September 5.

Order no. 1990-21: Issued 11:55 a.m., September 7, 1990.

Referred only to fishing in Canadian area Panel Waters.

Order no. 1990-22: Issued 1:10 p.m., September 7, 1990.

Referred only to fishing in Canadian area Panel Waters.

Order no. 1990-23: Issued 11:35 a.m., September 28, 1990.

Area 7A—Regulatory control extended until further notice in that portion of Area 7A lying westerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary through the east tip of Point Roberts to the East Point Light on Saturna Island in the Province of British Columbia.

Order no. 1990-24: Issued 11:40 a.m., October 5, 1990.

Area 7A—Relinquish regulatory control of that portion of Area 7A lying westerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary through the east tip of Point Roberts to the East Point Light on Saturna Island in the Province of British Columbia, effective October 7.

Other Matters

This action is taken under authority of 50 CFR 371.21 (51 FR 23425, June 27, 1986) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 371

Fisheries, Fishing, Pacific Salmon Commission, Treaty Indians.

Authority: 16 U.S.C. 3636(b).

Dated: November 5, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-26568 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 647

[Docket No. 900805-0270]

RIN 0648-AD17

Atlantic Coast Red Drum Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues this rule to implement the Atlantic Coast Red Drum Fishery Management Plan (FMP). This rule prohibits the harvest of red drum in the exclusive economic zone (EEZ) off the Atlantic coastal states south of the New Jersey/New York border. The intended effect of this rule is to conserve the red drum resource off the Atlantic coastal states.

EFFECTIVE DATE: December 11, 1990.

ADDRESSES: Requests for copies of the environmental impact statement should be sent to the South Atlantic Fishery Management Council, 1 Southpark Circle, Southpark Building, suite 306, Charleston, South Carolina 29407-4699.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813-893-3722.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the South Atlantic Fishery Management Council (Council) in cooperation with the Mid-Atlantic Fishery Management Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The management unit is the population of red drum occurring off the Atlantic coastal states from the east coast of Florida to the New Jersey/New York border. This rule regulates only the EEZ portion of the management unit; however, recommendations for management in applicable state waters are included in the FMP.

The background of the fishery and the management measures and their rationale were discussed in the proposed rule published August 15, 1990, (55 FR 33337), and are not repeated here. Further information is included in the FMP, the availability of which was published in the **Federal Register** on July 23, 1990 (55 FR 29868). One comment, which supported the FMP and the proposed regulations, was received.

Approval of the FMP

The Secretary of Commerce (Secretary) has approved the FMP, and the proposed rule is implemented as final with no changes.

Classification

The Regional Director, Southeast Region, NMFS, determined that the FMP is necessary for the conservation and management of the Atlantic red drum fishery and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a regulatory impact review (RIR) that concludes that this rule will have minimal adverse economic effects because the recreational and commercial catches of red drum in the EEZ are minimal.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant

economic impact on a substantial number of small entities because no entities conduct a directed fishery for red drum in the Atlantic Ocean EEZ. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared an environmental impact statement (EIS) that discusses the impact on the affected environment as a result of this rule. Based on the EIS, the Assistant Administrator concluded that there will be no significant adverse impact on the human environment as a result of this rule. A copy of the EIS may be obtained from the South Atlantic Council (see **ADDRESSES**).

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the coastal zone management programs of Delaware, Florida, Maryland, New Jersey, North Carolina, South Carolina, and Virginia. Georgia does not participate in the coastal zone management program. This determination was submitted for review by the appropriate state agencies under section 307 of the Coastal Zone Management Act. Delaware, Maryland, New Jersey, and South Carolina have found the provisions of this rule to be consistent to the maximum extent practicable with their coastal zone management programs. Florida, North Carolina, and Virginia failed to comment within the statutory time period; therefore, consistency is implied.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR 647

Fisheries, Fishing.

Dated: November 5, 1990.

Michael F. Tillman,

Acting Assistant Adn inistrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR is amended by adding a new part 647 to read as follows:

PART 647—ATLANTIC COAST RED DRUM

Subpart A—General Provisions

Sec.
647.1 Purpose and scope.
647.2 Definitions.
647.3 Relation to other laws.
647.4 Permits and fees. [Reserved]
647.5 Reporting requirements. [Reserved]
647.6 Vessel identification. [Reserved]
647.7 Prohibitions.
647.8 Facilitation of enforcement.
647.9 Penalties.

Subpart B—Management Measures

647.20 Closure.
647.21 Specifically authorized activities.

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

Subpart A—General Provisions

§ 647.1 Purpose and scope.

(a) The purpose of this part is to implement the Atlantic Coast Red Drum Fishery Management Plan prepared by the South Atlantic Fishery Management Council in cooperation with the Mid-Atlantic Fishery Management The Council.

(b) This part governs conservation and management of red drum in or from the EEZ off the Atlantic coastal states south of the New Jersey/New York border.

§ 647.2 Definitions.

In addition to the definitions in the Magnuson Act, and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Management unit means the waters from the boundary between New Jersey and New York, and extension thereof to the outer limit of the EEZ, to the boundary between the Gulf of Mexico and the Atlantic Ocean, as specified at 50 CFR 601.11(c). The extension of the New Jersey/New York boundary to the outer limit of the EEZ is a line extending in a direction of 115° from true north commencing at a point at 40°29.6'N. latitude, 73°54.1'W. longitude, such point being the intersection of the New Jersey/New York boundary with the three nautical-mile line denoting the seaward limit of state waters.

Red drum means *Sciaenops ocellatus*, also called redfish or channel bass.

§ 647.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraph (b) of this section.

(b) These regulations apply within the EEZ portion of the following National Marine Sanctuaries and National Parks unless regulations or statutes establishing such sanctuary or park prohibit their application:

(1) Looe Key National Marine Sanctuary (15 CFR 937);

(2) Key Largo Coral Reef Marine Sanctuary (15 CFR part 929);

(3) Biscayne National Park (title 16 U.S.C. 410gg);

(4) Gray's Reef National Marine Sanctuary (15 CFR part 938); and

(5) Monitor Marine Sanctuary (15 CFR part 924).

§ 647.4 Permits and fees. [Reserved]

§ 647.5 Reporting requirements. [Reserved]

§ 647.6 Vessel identification. [Reserved]

§ 647.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of the chapter, it is unlawful for any person to do any of the following:

(a) Harvest or possess red drum in or from the EEZ, as specified in § 647.20(a).

(b) Fail to release red drum, as specified in § 647.20(b).

(c) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search in the process of enforcing this part.

§ 647.8 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 647.9 Penalties.

See § 620.9 of this chapter.

Subpart B—Management Measures

§ 647.20 Closure.

(a) No red drum may be harvested or possessed in or from the EEZ in the management unit.

(b) Red drum caught in the EEZ in the management unit must be released immediately with a minimum of harm.

§ 647.21 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 90-26569 Filed 11-6-90; 12:54 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 218
Friday, November 9, 1990

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 17

Financing of Commercial Sales of Agricultural Commodities

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Foreign Agricultural Service (FAS) proposes to amend the regulations applicable to the financing of the sale and exportation of agricultural commodities pursuant to title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), to increase the initial freight payment due vessel owners from 90 percent to 95 percent and to require detention provisions in freight contracts to cover delays in loading due to the failure to timely open letters of credit when the Commodity Credit Corporation (CCC) finances any part of the ocean freight. The amendment would also provide that vessel owners may collect the undisputed balance of freight in certain circumstances without the charterer's having signed the statement of facts and the laytime statement.

The purpose of these changes is to keep the costs of the Public Law 480, title I program as low as possible and insure that all persons desiring to participate in the shipping of commodities financed under Public Law 480, title I, receive fair and equitable treatment.

DATES: Written comments in duplicate should be submitted on or before December 24, 1990.

ADDRESSES: Comments should be sent to F. Paul Dickerson, General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, room 4071 South Building, 14th and Independence SW., Washington, DC 20250-1000.

FOR FURTHER INFORMATION CONTACT: Connie B. Delaplane, Director, P.L. 480 Operations Division, Export Credits, Foreign Agricultural Service, room 4549 South Building, U.S. Department of Agriculture, 14th and Independence SW., Washington, DC 20250-1000. Telephone: (202) 447-3664.

SUPPLEMENTARY INFORMATION: The proposed rule has been reviewed under USDA Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "nonmajor." It has been determined that this rule will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in costs to consumers, individual industries, Federal, State or local government agencies or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

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

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

Background

Under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, (Pub. L. 480), the Commodity Credit Corporation ("CCC") is authorized to finance the sale and exportation of agricultural commodities purchased by friendly countries. CCC's policy is, generally, to pay the ocean freight differential ("OFD") on U.S.-flag vessels. OFD is the amount determined to represent the additional freight costs incurred as a result of the requriement to use U.S.-flag vessels pursuant to cargo preference legislation. In certain circumstances, CCC may also finance, on credit terms, the non-OFD portion of the freight charges for U.S.-flag vessel carriage or the freight charges for foreign-flag vessel carriage.

The importing country is required to open letters of credit for the commodity purchase and for 100 percent of the freight costs for vessels carrying title I commodities when CCC finances any portion of the freight charges. Generally, the OFD portion of the freight costs is financed by CCC on a letter of commitment basis. However, when the freight contract provides for despatch earnings, only 90 percent of the OFD is financed on a letter of commitment basis and the balance of the OFD is financed on the reimbursement method. Under the reimbursement method, the importer pays the supplier of ocean transportation the balance of the freight, which may be less than 10 percent if the vessel owes despatch on the voyage. Despatch is the amount specified in a freight contract to be paid by the vessel operator to the charterer of the vessel for time saved by the vessel in loading and discharging the cargo, less than the number of days stipulated for those purposes in the contract ("laytime"). CCC reimburses the importing country, or a U.S. banking institution if the right to receive reimbursement has been assigned to the bank, for the balance of ocean freight, less a pro-rata share of net despatch, if any. Thus, CCC shares in despatch but not in demurrage. Demurrage is the amount to be paid by the charterer to the vessel operator for time that the vessel must use for loading and discharging the cargo in excess of the laytime.

Letter of Credit

It is proposed that 7 CFR 17.14 be amended to include the requirement that importing countries must open letters of credit for ocean freight before the vessel presents at the loading port whenever CCC finances any portion of the freight. This requirement is presently contained in each title I agreement. This provision would also make it clear that letters of credit must cover 100 percent of the estimated freight based upon quantities and rates specified in the shipping contract.

Initial Freight Payment

The initial freight payment due suppliers of ocean transportation when the contract provides for demurrage/despatch and CCC finances any part of the ocean freight would be increased from 90 percent to 95 percent. The original purpose of the 10 percent withholding procedure was to assure collection by CCC and the importing

country of their respective portions of any despatch payments that might be due under the terms of the ocean transportation agreement between the importer and the supplier of ocean transportation.

The 10 percent withholding amount has, in the past, significantly exceeded the actual amount of despatch earned by importing countries in almost all cases. The Maritime Administration (MARAD), Department of Transportation, conducted a study covering the period April 1, 1988 through March 31, 1989. In 97 instances out of 131 shipments (74 percent of the total shipments) the charterer was entitled to less than 3 percent of the total ocean freight to cover earned despatch; in 28 instances (21.4 percent of the total) the charterer was entitled to from 3 to 5 percent; and in only 6 instances (4.6 percent of the shipments) was the charterer entitled to more than 5 percent of the ocean freight.

Based on the above information and because some owners have encountered delays of months in receiving their final 10 percent payments under the existing regulations, we believe that increasing the initial freight payment would be more realistic and fairer to the vessel owners. Payment delays cost owners money and increase their operating costs; thus, the amendment is expected to reduce U.S.-flag freight rates and consequently the ocean freight differential paid by CCC.

Detention

The problem of delayed freight letters of credit has increased in the last several years. Title I agreements require that the importing country open freight letters of credit promptly after contracting for shipping space but, in any event, not later than presentation of the U.S.-flag vessel for loading. In addition, the Public Law 480, title I Financing Regulations provide in 7 CFR 17.6(g) that "If * * * the supplier of ocean transportation accepts the commodity, before receipt of an acceptable letter of credit from a bank, the supplier takes such action at its own risk * * *." In many cases, however, vessel owners have agreed to load without a letter of credit in order to accommodate the importing country or to prevent costly delays in the vessel's schedule. Many of these vessels have actually completed discharge of the title I cargo before freight letters of credit were opened.

A recent MARAD review revealed that, during July and August 1987, 11 U.S.-flag vessels loaded their cargoes, sailed, discharged their cargoes and were returning to the United States before proper letters of credit were established by the importing country. For two vessels, the letters of credit were established by the completion of the final discharging operations. For all 13 vessels, the 90 percent portion of the ocean freight represented over $22 million.

The review showed that, in the same period in 1988, eight U.S.-flag vessels loaded and completed discharge of their cargoes before properly executed letters credit were established. For these eight vessels, the 90 percent portion of the freight represented more than $5.3 million. Letters of credit for four vessels were not established until after the vessels had completed discharge and were en route back to the United States. In almost every case the letter of credit was not established until more than 60 days after the vessel's presentation date at the load port.

Finally, according to the review, during the period May 31 through June 15, 1989, four vessels loaded, sailed and discharged their cargoes before letters of credit were opened. This resulted in payment of more than $8 million of ocean freight being withheld for more than 60 days.

In other cases, commodity suppliers have refused to release the cargo until an operable commodity letter of credit was available to the exporting firm. This has generally meant that vessels sat idle and lost revenue.

Such delays in payment or in loading are very likely to increase freight rates offered under the title I program as owners build these costs into their rates or to reduce competition if owners are able to locate cargoes other than title I commodities. In order to avoid these problems, and realizing that ocean transportation suppliers are not in position to negotiate contract terms under the title I program, it is deemed desirable to preserve the remedy of detention available to a carrier. Therefore, the proposed rule would require that freight contracts must allow for vessel detention claims when loading is delayed because of the lack of a freight or commodity letter of credit. The decision whether to load or not because of the lack of a letter of credit for the freight remains with the supplier of ocean transportation.

Under the proposed regulation, the period of detention would begin when the vessel presented its notice of readiness to load at the designated loading port and end when an acceptable letter of credit was established. Once begun, detention would continue only until the letter of credit was opened, regardless of other delaying factors which might exist such as strikes or inclement weather.

The regulations would further be amended to make it clear that CCC will not finance detention charges. As a result, disputes regarding actual liability for detention and amounts due under a detention clause must be resolved between the parties to the contract. (See 7 CFR 17.6(d)) of the current regulations.

Laytime Statements and Statements of Fact

According to several vessel owners, slow processing by importing countries of required statements of fact and laytime statements have contributed to some serious delays in collection of the balance of ocean freight due. The statement of facts details the activities related to loading and discharging the vessel and is approved by representatives of the vessel operator and the importer. The laytime statement is prepared by the vessel operator based on the statement of facts and is approved by the importer. They are reviewed by CCC before reimbursement of ocean freight differential is made. The statement of facts and laytime statement serve as the basis for determining despatch or demurrage that may be due. Delay in collecting the balance of ocean freight because of failure to process these documents promptly can increase title I freight rates. Under current regulations, a laytime statement and statement of facts signed by the charterer or consignee are required before the supplier of ocean transportation may receive the balance of freight due.

When CCC finances any part of the ocean freight, the proposed rule would allow the supplier of ocean transportation to provide laytime statements and statements of fact without the signature of the charterer, the consignee or their agents if 60 days had elapsed since completion of discharge. In connection with this provision, as further described below, it would be incumbent upon the charterer, consignee or their agent to provide prompt written notification to the supplier of ocean transportation and to CCC of the amount of disputed despatch and the reason for such dispute.

In order to receive payment based on laytime statements and statements of fact without the signature of the charterer, the supplier would be required to certify that the documents had been submitted to the charterer at least 30 days prior to the request for payment and that the charterer had been notified that payment was being requested based on laytime statements and/or statements of fact signed only by the vessel master or owner. In addition,

in the case of a dispute over the despatch computation, the supplier of ocean transportation would be required to provide to the U.S. banking institution through which payment is being effected a copy of the notice from the charterers of the amount in dispute and the reason for such dispute. In such case, the supplier would be entitled to collect only the undisputed amount of the final 5 percent without signature by the charterer, consignee, or their agents of the statements of fact and combined laytime statements. The freight letter of credit and the freight contract would be required to contain this provision.

List of Subjects in 7 CFR Part 17

Agricultural commodities; Exports; Finance; Maritime carriers.

Accordingly, 7 CFR part 17, subpart A, is amended as follows:

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

Authority: Sections 101–115, Pub. L. 480, 83rd Cong., as amended, 68 Stat. 455 (7 U.S.C. 1701 *et seq.*); E.O. 12220, 45 FR 44245.

§ 17.14 [Amended]

2. In § 17.14, "90 percent" is changed to "95 percent" and "10 percent" is changed to "5 percent" in paragraphs (e)(3), (e)(4), (l)(8) and (n); and "90 percent" is changed to "95 percent" in paragraphs (l)(2), (l)(3), (l)(4), (l)(5)(ii), (l)(6), and (l)(7).

§ 17.14 [Amended]

3. Section 17.14 is further amended by adding paragraph (a)(4), changing the period following paragraph (j)(8) to a semicolon and adding paragraphs (j)(9) and (k) (7) and (8), and amending paragraph (n) by adding a sentence at the end thereof, to read as follows:

§ 17.14 Ocean transportation.

(a) * * *

(4) When commodities are required to be transported in a U.S.-flag vessel, the government of the importing country must ensure that an irrevocable letter of credit has been opened in favor of the supplier of ocean transportation prior to the vessel's presentation for loading. The letter of credit shall provide for sight payment or acceptance of a draft, payable in U.S. dollars, for 100 percent of the ocean freight on the basis of the quantities and rates specified in the applicable charter party or liner booking contract.

* * * * *

(j) * * *

* * * * *

(9) Detention.

(k) * * *

* * * * *

(7) Charter parties and liner booking contracts must specify that the participant shall be liable for detention of the vessel for loading delays attributable to the decision of the supplier of ocean transportation or the supplier of commodity not to commence loading because of the failure of the participant to establish an operable irrevocable ocean freight or commodity letter of credit. The ocean transportation supplier shall be entitled to reimbursement for detention costs for all time so lost, for each calendar day or any part of a calendar day. The period of such delay shall not commence earlier than upon presentation of the vessel at the designated loading port within the laydays specified in the charter party or booking contract, and upon notification of the vessel's readiness to load in accordance with the terms of the applicable charter party or booking contract. The period of such delay shall end at the time an operable irrevocable letter of credit has been established. Time calculated as detention shall not count as laytime. Reimbursement for such detention shall be payable no later than upon the vessel's arrival at the first port of discharge.

(8) Charter parties and liner booking contracts which provide for despatch earnings, and related letters of credit for ocean freight, must contain the provision in § 17.18(d)(iii) regarding acceptability under certain circumstances of statements of fact and combined laytime statements without signature by the charterer or consignee or their agents.

* * * * *

(n) * * * If the charterer does not agree with the despatch computation, the charterer, consignee or their agent must immediately provide written notification to the supplier of ocean transportation and to CCC of the amount disputed and the reason for such dispute. (See § 17.18(d)(6)(iii)).

4. In § 17.18 paragraphs (d)(6) introductory text and (d)(6)(ii) are amended by changing "90 percent" to read "95 percent", and by revising paragraph (d)(6)(iii) to read as follows:

§ 17.18 Documentation.

* * * * *

(d) *Documents required for reimbursement of ocean freight financed separately from commodity price.*

* * * * *

(6) * * *

(iii) A copy of the loading and discharging statements of fact and the combined laytime statement signed by the ship's master or owner and the charterer or consignee. Agents' signatures are acceptable. However, if 60 calendar days have elapsed since completion of discharge, as shown by the statement of fact, signature by the charterer or consignee or their agents is not required as long as the documents are accompanied by a statement signed by the supplier of ocean transportation certifying that the supplier submitted the statements of fact and combined laytime statement to the charterer for review at least 30 days prior to the request for payment and that the supplier has notified the charterer of the request for payment on this basis. If the charterer has advised the supplier in writing of any disputed amount of despatch, a copy of this advice must be included in the request for payment and, in such case, only the portion of the 5 percent which is not in dispute is eligible for reimbursement. The provisions of this paragraph shall be included in the letter of credit for ocean freight.

* * * * *

Signed at Washington, DC on October 25, 1990.

F. Paul Dickerson,

General Sales Manager, Foreign Agricultural Service; and Vice President, Commodity Credit Corporation.

[FR Doc. 90–26556 Filed 11–8–90; 8:45 am]

BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 989

[FV-91-212 PR]

1990–91 Expenses and Assessment Rate Under Marketing Order No. 989

Raisins Produced From Grapes Grown In California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 989 for the 1990–91 fiscal year established under the federal marketing order for raisins produced from grapes grown in California. Authorization of this budget would allow the Raisin Administrative Committee (Committee) to incur reasonable and necessary expenses to administer the marketing order program. Funds for the program would be derived from assessments on handlers of California raisins.

DATES: Comments must be received by November 19, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. box 96456, room 2525-S, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

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

SUPPLEMENTARY INFORMATION:

This proposed rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

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

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

There are an estimated 23 handlers of California raisins subject to regulation under this marketing order and approximately 5,000 producers of California raisins. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The minority of handlers and the majority of producers of raisins may be classified as small entities.

The federal marketing order for California raisins requires that the assessment rate for a particular marketing year shall apply to all assessable raisins handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are handlers and producers of regulated raisins. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings, so that all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of assessable raisins. That rate is applied to actual shipments to produce sufficient income to pay the Committee's expected expenses. The budget of expenses and rate of assessment are usually recommended by the Committee shortly after the season starts. Expenses are incurred on a continuous basis; therefore, the budget of annual expenses and assessment rate approval must be expedited so that the Committee will have funds to meet its obligations.

The Committee met on October 4, 1990, as required by the marketing order, and unanimously recommended 1990-91 marketing order expenditures of $540,550 and an assessment rate of $1.90 per assessable ton of raisins. In comparison, 1989-90 marketing year budgeted expenditures were $534,505, and the assessment rate was 1.50 per ton. Assessment income for 1990-91 is estimated at $540,550 based on 284,500 tons of assessable raisins.

Major expenditure categories in the 1990-91 budget are $195,000 for executive salaries, $101,000 for office personnel salaries, $50,000 for Committee travel, $38,000 for compliance staff salaries, and $35,000 for insurance and bonds. Comparable budgeted expenditures for the 1988-89 fiscal year were $176,400, $91,200, $40,000, $33,000, and $35,000, respectively. The increase in the assessment rate is necessary because the estimate of the crop is about 35,000 tons less than last year. Also, the Committee has increased salaries for executive personnel.

While this action would impose some additional costs on handlers of California raisins, including small entities, the costs are in the form of uniform assessments on all handlers. Any costs to handlers are expected to be more than offset by benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval for this program needs to be expedited. The Committee must have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Part 989 be amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

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

2. Section 989.341 is added to read as follows:

§ 989.341 Expenses and assessment rate.

Expenses of $540,550 by the Raisin Administrative Committee are authorized and an assessment rate payable by each handler in accordance with § 989.80 of $1.90 per ton of assessable raisins is established for the crop year ending July 31, 1991. Any unexpended funds from that crop year shall be credited or refunded to the handler from whom collected.

Dated: November 5, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-26561 Filed 11-8-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-46; Notice No. SC-90-5-NM]

Special Conditions: Embraer Model CBA-123 Airplane; Lightning and High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Embraer Model CBA-123 airplane. This airplane is equipped with high-technology digital avionics systems which perform critical or essential funcitons. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lightning and high-intensity radiated fields (HIRF). This notice proposes additional safety standards which the Administrator considers necessary to ensure that the critical and essential functions that these systems perform are maintained when the airplane is exposed to lightning and HIRF.

DATES: Comments must be received on or before December 24, 1990.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket ANM-7), Docket No. NM46, 1601 Lind Avenue SW, Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-46. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Hank Jenkins, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington, 98055-4046; telephone (207) 227-2141.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-46." The postcard will be date/time stamped, and returned to the commentor.

Background

On July 31, 1986, Embraer applied for a type certificate for their new Model CBA-123 airplane. The CBA-123 is a pressurized 19-passenger transport category airplane with a maximum takeoff gross weight of 18,739 pounds, maximum cruise speed of 272 knots, maximum operating altitude of 40,000 feet, and a range of approximately 800 miles fully loaded. It is powered by two Garrett TPF351-20 turboprop engines mounted on the aft fuselage in a pusher configuration. This airplane incorporates a number of novel or unusual design features, such as digital avionics including, but not necessarily limited to, an electronic flight instrument system (EFIS), attitude and heading reference system (AHRS), engine indication and crew alerting system (EICAS), and full authority digital engine control (FADEC), which are vulnerable to lightning and high-intensity radiated fields (HIRF) external to the airplane. In addition to these novel or unusual design features, the Model CBA-123 also incorporates other unrelated novel or unusual design features. Those features will be the subject of separate notices of proposed special conditions.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Embraer must show that the Model CBA-123 meets the applicable requirements of Subchapter C in effect on the date of application for that certificate unless: (1) Otherwise specified by the Administrator; or (2) Compliance with later effective amendments is elected or required under § 21.17; and (3) Special conditions are prescribed by the Administrator.

Based on the provisions of § 21.17(a)(1), the Model CBA-123 would be required to comply with part 25, as amended through Amendment 25-60; however, Embraer has elected to comply with part 25, as amended through Amendment 25-61, and is expected to comply with §§ 25.571(e)(2) and 25.905(d), as amended by Amendment 25-72. In addition, SFAR 27 and part 36, through the latest amendments in effect at the time of awarding the type certificate, must be met. The special conditions which may be developed as a result of this notice will form an additional part of the type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Model CBA-123 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2). In addition to the applicable airworthiness regulations and special conditions, the Model CBA-123 must comply with the noise certification requirements of part 36 and the engine emission requirements of Special Federal Aviation Regulation (SFAR) 27.

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with the new technology avionic systems. There are two regulations that specifically pertain to lightning protection; one for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it would significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from

ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are proposed for the Model CBA-123 which would require that the new technology electrical and electronic systems, such as the electronic flight instrument system (EFIS), attitude and heading reference system (AHRS), engine indication and crew alerting system (EICAS), and full authority digital engine control (FADEC), be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with the proposed special conditions, a clarification on the threat definition for lightning is needed. The following "threat definition," based on FAA Advisory Circular 20-136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the proposed lightning protection special condition.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in Advisory Circular (AC) 20-53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane its systems depend upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed sytems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level; then

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) the minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

And,

3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of 24 randon sets of 20 strokes each, distributed over a period of 2 seconds. Each set of 20 strokes is made up of 20 repetitive Component H waveforms distributed within a period of one millisecond. The minimum time between individual Component H pulses within a burst is 10μs, the maximum is 50μs. The 24 bursts are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$i(t)=I_o(e^{-at}-e^{-bt})$

where;

t=time in seconds,

i=current in amperes, and

		Severe Strike (component A)	Restrike (component D)	Multiple stroke (½ component D)	Multiple Burst (component H)
I_o, amp	=	218,810	109,405	54,703	10,572
a, sec^{-1}	=	11,354	22,708	22,708	187,191
b, sec^{-1}	=	647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:					
i_{peak}	=	200 KA	100 KA	50 KA	10 KA
and					
$(di/dt)_{max}$(amp/sec)	=	1.4×10^{11} @t=0+sec	1.4×10^{11} @t=0+sec	0.7×10^{11} @t=0+sec	2.0×10^{11} @t=0+sec
di/dt, (amp/sec)	=	1.0×10^{11} @t=.5μs	1.0×10^{11} @t=.25μs	0.5×10^{11} @t=.25μs	
Action Integral (amp^2 sec)	=	2.0×10^6	0.25×10^6	$.0625 \times 10^6$	

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS and EICAS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter average electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz-500 KHz	80	80
500 KHz-2 MHz	80	80
2 MHz- 30 MHz	200	200
30 MHz-100 MHz	33	33
100 MHz-200 MHz	33	33
200 MHz-400 MHz	150	33
400 MHz- 1 GHz	8,300	2,000
1 GHz- 2 GHz	9,000	1,500
2 GHz- 4 GHz	17,000	1,200
4 GHz- 6 GHz	14,500	800
6 GHz- 8 GHz	4,000	666
8 GHz- 12 GHz	9,000	2,000
12 GHz- 20 GHz	4,000	509
20 GHz- 40 GHz	4,000	1,000

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Airworthiness Authorities.

Conclusion

This action affects only certain unusual or novel design features on one model of airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Embraer Model CBA-123 airplane:

1. *Lightning Protection*

a. Each electrical and electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

b. Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF)*

Each electrical and electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to externally radiated electromagnetic energy.

3. The following definitions apply with respect to these special conditions:

Critical Function. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Renton, Washington, on October 26, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26573 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-230-AD]

Airworthiness Directives; British Aerospace Model BAe 146-100A, -200A, and -300A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes, which would require replacement of a certain remote controlled circuit breaker (RCCB). This proposal is prompted by a report of an in-service incident where an adjustment nut came loose within an RCCB in the AC powered hydraulic pump electric power circuit, which disabled the electrical power over-current protection. This condition, if not corrected, could result in loss of all AC electrical power.

DATES: Comments must be received no later than January 3, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-230-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. box 17414, Dulles International Airport,

Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-230-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes. There has been a recent report of an in-service incident where an adjustment nut came loose within a remote controlled circuit breaker (RCCB). This resulted in one contact set remaining closed and disabling the over-current protection. The RCCB unit involved was located in the AC powered hydraulic pump electrical power supply circuit. This condition, if not corrected, could result in complete loss of all AC electrical power.

British Aerospace has issued Service Bulletin 24-69-70484A, Revision 1, dated July 25, 1990, which describes procedures to remove certain RCCB's and replace them with modified units. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require the removal of certain RCCB's and replacement with a modified unit in accordance with the service bulletin previously described.

It is estimated that 74 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The modified RCCB's will be provided to the operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,960.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

British Aerospace: Applies to Model BAe 146-100A, -200A, and -300A series airplanes, as listed in British Aerospace Service Bulletin 24-269-70484A, Revision 1, dated July 25, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent loss of all AC electrical power, accomplish the following:

A. Within 90 days after the effective date of this AD, in the AC powered hydraulic pump electric power circuit, remove the remote controlled circuit breaker (RCCB), part Number SM601BA40A12 or SM601BA40A13, and replace it with a modified RCCB, part Number SM601BA40A14, in accordance with British Aerospace Service Bulletin 24-69-70484A, Revision 1, dated July 25, 1990.

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

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 31, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26574 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-224-AD]

Airworthiness Directives; Airbus Industrie Model A320-111, A320-211, and A320-231 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus industrie Model A320-111, A320-211, and A320-231 series airplanes, which would require a one-time inspection of the main landing gear (MLG) wheel axles, to detect defects in the MLG sliding tube assemblies and to identify part numbers, and replacement, if necessary. This proposal is prompted by fatigue testing of sliding tube subassemblies found with cracks which revealed that certain assemblies must be replaced upon the accumulation of 6,600 landings. This condition, if not corrected, could result in loss of the MLG wheels.

DATES: Comments must be received no later than January 3, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-224-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-224-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A320-111, A320-211, and A320-231 series airplanes. During manufacture of a main landing gear (MLG) sliding tube assembly, an inspection revealed an area of residual stress. The area of residual stress is around the axle (at the radius where the axle runs into the brake mounting flange). The residual stress is a result of a grinding technique applied to the MLG axle, which has now been discontinued. Further inspections of the MLG slide tube assembly, with the chromium plating on the axle removed, revealed small spanwise cracks around the axle. Fatigue testing of cracked sliding tube subassemblies has revealed that suspect assemblies must be replaced prior to the accumulation of 6,600 landings. This condition, if not corrected could result in loss of the MLG wheels. Airbus Industrie has issued Service Bulletin A320-32-1031, Revision 1, dated March 19, 1990, which describes procedures for a one-time inspection of the MLG wheel axles, using "Stresscan 500C" test equipment, to detect defects in the MLG slide tube assemblies and to identify part numbers, and replacement of the assemblies, if necessary. The Airbus Industrie Service Bulletin references Dowty Rotol Service Bulletin 200-32-70, appendix A, dated December 7, 1989. for additional instructions. The French DGAC has classified the Airbus Industrie service bulletin as mandatory, and has issued Airworthiness Directive 90-096-010(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require a one-time inspection of the MLG wheel axles, using "Stresscan 500C" test equipment, to detect defects in the MLG sliding tube assemblies and to identify the part number, and replacement, if necessary, in accordance with the service bulletin previously described.

It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,800.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Applies to Model A320-111, A320-211, and A320-231 series airplanes, equipped with twin wheel axles; Serial Numbers 002 through 044, 052 through 055, 059 through 073, 076 through 078, and 081; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect defects in the main landing gear (MLG) sliding tube assemblies, accomplish the following:

A. Prior to the accumulation of 6,600 landings, or within 30 days after the effective date of this AD, whichever occurs later, perform an inspection of the MLG wheel axles, using "Stresscan 500C" test equipment, and identify the part number of the MLG sliding tube assemblies, in accordance with Airbus Industrie Service Bulletin A320-32-1031, Revision 1, dated March 19, 1990. Prior to further flight, replace all sliding tube assemblies identified as suspect and all sliding tube assemblies found with defects, in accordance with the service bulletin.

Note: The Airbus Industrie service bulletin references Dowty Rotol Service Bulletin 200-32-70, appendix A, dated December 7, 1989, for additional instructions.

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

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 31, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26575 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-48-AD]

Airworthiness Directives; Dornier Models Do228-100, Do228-101, Do228-200, Do228-201, Do228-202 and Do228-212 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD) that is applicable to certain Dornier Do228 series airplanes. The proposed action would require the replacement of certain horizontal stabilizer electric trim system relays with improved relays and the modification of the connections to these relays. Optional electrical installations on these airplanes can cause higher specific switching cycles and higher peak currents and reduces the life of the relays and the reliability of the system. A failed relay could result in an uncommanded trim motion and the resulting possible loss of control of the airplane. This proposed action would preclude these electrical reliability reductions and assure proper functioning of the electric trim system.

DATES: Comments must be received on or before January 7, 1991.

ADDRESSES: Dornier 228 Service Bulletin No. ASB-228-164, dated June 5, 1990, applicable to this AD, may be obtained from Dornier Luftfahrt GmbH, Product Support, P.O. box 3, D-8031 Wessling, Federal Republic of Germany; Telephone (498153)-300; Facsimile (498153)-30.29.85. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-48-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Heinz Hellebrand, Brussels Aircraft Certification Office, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322)-513.38.30; or Mr. Herman Belderok, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932, ext 2710; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-48-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Certain Dornier 228 series airplanes currently have electric trim systems incorporating trim relays 4CC, 5CC, 8CC, and 9CC. These trim relays are critical to the system reliability and to the prevention of an uncommanded trim system runaway, which could result in complete loss of control of the airplane.

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany (FRG), recently notified the FAA of an unsafe condition that may exist on certain Dornier Model Do228 airplanes. The LBA-FRG advises that the optional installations of the autopilot and/or the elevator trim coupling systems on these airplanes cause higher specific switching cycles than anticipated. In addition, the peak currents caused by

the dual trim actuation could exceed the design values in the 4CC, 5CC, 8CC, and 9CC relays, thereby reducing the reliability of these relays and of the trim system. Dornier has issued Service Bulletin (SB) No. ASB-228-164, dated June 5, 1990, which prescribes the replacement of relays 4CC, 5CC, 8CC, and 9CC with new improved relays and subsequent modifications of the relay connections. The LBA-FRG classified this SB as mandatory. These airplanes are manufactured in the Federal Republic of Germany and are type certificated for operation in the United States. Under the provisions of a bilateral airworthiness agreement, the LBA-FRG has shared the above information with the FAA.

The FAA has examined the findings of the LBA-FRG, reviewed all available information, and determined that AD action is necessary for products of this type design, certificated for operation in the United States. Consequently, the FAA is proposing an AD that would require the replacement of the horizontal stabilizer electric system relays 4CC, 5CC, 8CC, and 9CC with improved relays and modification of the relay connections on certain Dornier Do228 series airplanes in accordance with Dornier SB No. ASB-228-164, dated June 5, 1990.

The FAA has determined that there are approximately 43 airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $200 for labor (5 hours at $40 an hour) and $1,017 for parts for a total of $1,217 per airplane. The total cost is estimated to be $52,331. It would be necessary for a small entity to own 4 or more of the affected airplanes to incur a significant cost of compliance with this proposal. Few (less than 33 percent) small entities affected by the proposal own 4 or more of the affected airplanes. Therefore, the cost of compliance is so small that it will not have a significant impact on the small entities operating these airplanes.

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

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Dornier: Docket No. 90-CE-48-AD.

Applicability: Model Do228-100, Do228-101, Do228-200, Do228-201, Do228-202, and Do228-212 airplanes (serial numbers (S/N) 7005 through 7167 with autopilot option (S20); and S/N 8002 through 8161 and 8163 through 8190 with autopilot option (S20), or trim coupling option (CO1), or a combination of the S20 and CO1 options), certificated in any category.

Compliance: Required within the next 600 hours time-in-service after the effective date of this AD, unless already accomplished.

To retain the reliability of the horizontal stabilizer electric trim system, accomplish the following:

(a) Replace relays 4CC, 5CC, 8CC, and 9CC with improved relays and modify the electrical connections of these relays in accordance with the instructions in Dornier Service Bulletin No. ASB-228-164, dated June 5, 1990.

(b) Airplanes may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

Note 1: The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note 2: All persons affected by this directive may obtain copies of the document referred to herein upon request to Dornier Luftfahrt GmbH, Product Support, P.O. box 3, D-8031 Wessling, Federal Republic of Germany; Telephone (498153)-300; Facsimile (498153)-30.29.85; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 1, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26576 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-49-AD]

Airworthiness Directives; Dornier Models Do228-100, Do228-101, Do228-200, Do228-201, Do228-202, and Do228-212 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD) that is applicable to certain Dornier Do228 series airplanes. The proposed action would require the installation of a second electrical bonding strap between the wing rear spar and the fuselage, an inspection for galvanic corrosion between the wing front spar and several electrical connectors, and the improvement of the electrical bonding jumpers between the horizontal stabilizer and the elevator. Several reports from U.S. airplane operators have been received of malfunctions of electrical equipment located in the wings of these airplanes. This action would assure the safety of electrical equipment and help eliminate subsequent engine failure.

DATES: Comments must be received on or before January 7, 1991.

ADDRESSES: Dornier Service Bulletin (SB) No. SB-228-106, Revision 1, dated December 11, 1989, SB No. SB-228-152, Revision 1, dated February 19, 1990, and SB No. SB-228-162, dated February 19, 1990, applicable to this AD, may be obtained from Dornier Luftfahrt GmbH, Product Support, P.O. box 3, D-8031 Wessling, Federal Republic of Germany; Telephone (498153)-300; Facsimile (498153)-30.29.85. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA,

Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-49-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Heinz Hellebrand, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322)-513.38.30, Extension 2710; or Mr. Herman Belderok, Project Officer, FAA, 601 E. 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-49-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Several U.S. operators of Dornier Do228 series airplanes have reported malfunctions of the electrical equipment located in the wings. Dornier has issued several service bulletins on methods to improve the electrical bonding system of these airplanes and to eliminate possible galvanic corrosion between certain electrical connectors located on the wing front spar.

These include Service Bulletin (SB) No. SB-228-106, Revision 1, dated December 11, 1989; SB No SB-228-152, Revision 1, dated February 19, 1990; and SB No. SB-228-162, dated February 19, 1990. These service bulletins prescribe the installation of an additional electrical bonding strap between the wing rear spar and the fuselage, the inspection for possible galvanic corrosion between the wing front spar and electrical connectors 56VP, 57VP, 58VP, and 59VP (electrical connectors 23Qxa and 24Qxa if option IK04 is installed), and the replacement of the elevator to the stabilizer electrical bonding straps with units having a larger cross section.

The FAA has reviewed the situation as described above and has concluded that an unsafe condition does exist and that AD action is necessary to assure the continued airworthiness of the affected Dornier Do228 series airplanes certificated for operation in the United States. Consequently, the proposed AD would require the installation of a second electrical bonding strap between the wing rear spar and the fuselage, an inspection for galvanic corrosion between the wing front spar and electrical connectors 56VP, 57VP, 58VP, and 59VP (electrical connectors 23Qxa and 24Qxa if option IK04 is installed), and the improvement of the electrical bonding jumpers between the horizontal stabilizer and the elevator.

The FAA has determined that there are approximately 43 airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $800 for labor (20 hours at $40 an hour) and $546 for parts for a total of $1,346 per airplane. The total fleet cost is estimated to be $57,878. It would be necessary for a small entity to own 3 or more of the affected airplanes to incur a significant cost of compliance with this proposal. Few (less than 33 percent) small entities affected by this proposal own 3 or more of the affected airplanes. Therefore, the cost of compliance is so small that it will not have a significant impact on the small entities operating these airplanes.

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

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Dornier: Docket No. 90-CE-49-AD.

Applicability: Models Do228-100, Do228-101, Do228-200, Do228-201, Do228-202, and Do228-212 airplanes (serial numbers as indicated in the body of the AD), certificated in any category.

Compliance: Required within the next 300 hours time-in-service after the effective date of this AD, unless already accomplished.

To assure the electrical bonding integrity of the affected airplanes, accomplish the following:

(a) For serial numbers (S/N) 7000 through 7168 and S/N 8000 through 8190 airplanes, replace the 4 mm^2 cross-sectional area bonding straps between the horizontal stabilizer and the elevator with 6 mm^2 cross-sectional area bonding straps in accordance with Dornier Service Bulletin (SB) No. SB-228-106, Revision 1, dated December 11, 1989.

(b) For S/N 7000 through 7168, S/N 8000 through 8175, and S/N 8177 airplanes, visually inspect the wing front spar area around electrical connectors 56VP, 57VP, 58VP and 59VP (electrical connectors 23Qxa, 24Qxa if option IK04 is installed) for corrosion in accordance with Dornier SB No. SB-228-152, Revision 1, dated February 19, 1990. If corrosion is found, prior to further flight remove the corrosion and treat the affected area in accordance with Dornier SB

No. SB-228-152, "Accomplishment Instruction" paragraph 2.2.

(c) For S/N 7000 through 7168 and S/N 8000 through 8179 airplanes, install an additional grounding strap between the wing rear spar and the fuselage in accordance with Dornier SB No. SB-228-162, dated February 19, 1990.

(d) Airplanes may be flown in accordance to FAR 21.197 to a location where this AD may be accomplished.

(e) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

Note 1: The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note 2: All persons affected by this directive may obtain copies of the documents referred to herein upon request to Dornier Luftfahrt GmbH, Product Support, P.O. box 3, D-8031 Wessling, Federal Republic of Germany; Telephone (498153)-300; Fax (498153)-30.29.85; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 1, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26577 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-ASO-21]

Proposed Amendment of Transition Area, New Smyrna Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the New Smyrna Beach, FL, transition area. A new standard instrument approach procedure (SIAP) is planned to the Massey Ranch Airport utilizing the New Smyrna Beach nondirectional radio beacon (NDB). This proposed action would lower the base of controlled airspace from 1200 to 700 feet above the surface in vicinity of the Massey Ranch Airport for protection of instrument flight rules (IFR) aeronautical operations. If approved, the operating status of the airport will change from visual flight rules (VFR) to IFR concurrent with publication of the NDB SIAP.

DATES: Comments must be received on or before: December 31, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO-530, Manager, System Management Branch, Docket No. 90-ASO-21, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-ASO-21." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the New Smyrna Beach, FL, transition area. An NDB SIAP is planned for the Massey Ranch Airport and additional controlled airspace is needed for protection of IFR aeronautical operations. This action would lower the base of controlled airspace from 1200 to 700 feet above the surface in vicinity of the airport. The operating status of the Massey Ranch Airport would be changed from VFR to IFR concurrent with publication of the SIAP. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F dated January 2, 1990.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

New Smyrna Beach, FL [Amended]

Following the words, "* * * New Smyrna Beach Airport (lat. 29°03'15" N., long. 80°56'54" W);" insert the clause, "within a 6.5-mile radius of Massey Ranch Airpark Airport (lat. 28°58'45" N, long. 80°55'30" W);"

Issued in East Point, Georgia, on October 26, 1990.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90–26578 Filed 11–8–90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–015]

RIN 1218–AA59

Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment; Reopening of the Record and Request for Public Comment

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; reopening of the record and request for public comment.

SUMMARY: On January 31, 1989, OSHA proposed a new standard addressing the work practices to be used during the operation and maintenance of electric power generation, transmission, and distribution facilities (54 FR 4974). The proposal included requirements relating to confined spaces, hazardous energy control, working near energized parts, grounding for employee protection, work on underground and overhead installations, work in substations and generating plants, and other special conditions and equipment unique to the generation, transmission, and distribution of electric energy. OSHA also proposed to revise the electrical protective equipment requirements contained in the General Industry Standards.

This document reopens the rulemaking record on this proposed standard to allow for additional public comment and to include an economic impact study for non-utilities.

DATES: Comments on the proposal must be postmarked by January 8, 1991.

ADDRESSES: Four copies of written comments must be sent to the Docket Office, Docket No. S–015, U.S. Department of Labor, room N2625, 200 Constitution Ave., NW., Washington, DC 20210. (telephone: 202–523–7894.) Comments of 10 or fewer pages in length may also be transmitted by facsimile to 202–523–5046 (FTS 523–5046), provided that the original and four copies of the comment are sent to the Docket Office thereafter.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, room N3637, 200 Constitution Ave., NW., Washington, DC 20210 (telephone: 202–523–8148).

SUPPLEMENTARY INFORMATION: On January 31, 1989, OSHA published a proposed standard on electric power generation, transmission, and distribution work and on electrical protective equipment (54 FR 4974). Proposed new § 1910.269 was intended to supplement the existing electric power transmission and distribution requirements contained in 29 CFR part 1926, subpart V. Proposed § 1910.137 was intended to update the existing provisions on electrical protective equipment. The proposal was based, in part, on the provisions of a draft standard proposed jointly by the International Brotherhood of Electrical Workers and the Edison Electric Institute. Interested parties were originally given until May 1, 1989, to submit written comments on the proposal, to file objections, and to request a hearing. In response to requests from the public, the deadline was subsequently extended to June 1, 1989 (54 FR 18546).

OSHA received 77 comments on the proposal by June 1, 1989, and several commenters requested a hearing. In response to the hearing requests and in accordance with section 6(b)(3) of the Occupational Safety and Health Act, OSHA published a notice announcing an informal public hearing and listing the issues to be discussed at the hearing (54 FR 30401, corrected at 54 FR 31970).

The hearing began on November 28, 1989, in Washington, DC. It was adjourned on December 5, 1989, and was reconvened on December 12, 1989, in Los Angeles, CA. The hearing concluded on December 14, 1989.

At the close of the public hearing, Administrative Law Judge Robert Feldman set the deadlines for the submission of additional information and for the filing of briefs by the participants to be March 14 and April 13, 1990, respectively. At the request of some of the hearing participants, Judge Feldman subsequently extended the deadlines to July 1 and August 1, 1990.

Section 1910.269 was proposed to apply only to installations under the exclusive control of electric utilities. One of the issues listed in the notice of hearing was whether the scope of the standard should be extended to include work on all electric power generation, transmission, and distribution installations regardless of who owned or operated the installations.

The original regulatory impact analysis for the proposal did not consider the impact of the standard beyond electric utilities and their contractors. Based on its review of the record, the Agency has decided to evaluate the economic impact of applying the rule to employers who are not electric utilities. Therefore, OSHA has conducted a study (performed by Eastern Research Group, Inc.) of the costs and benefits of applying § 1910.269 to companies who generate or distribute their own electric power. This study, entitled "Assessment of the Benefits of the Proposed Standard for Electric Power Generation, Transmission, and Distribution As It Pertains to the Cogeneration of Electric Power," has been placed in the rulemaking record on the proposal and is available for inspection and copying in the Docket Office.

OSHA is reopening the record on the proposal for a period of 60 days. This will enable persons affected by the extension in scope and other interested persons to comment on the impact assessment and the proposed standard. Written comments must be postmarked on or before January 8, 1991, and submitted in quadruplicate to the Docket Office; Docket No. S–105, rm. N2625; U.S. Department of Labor, Occupational Safety and Health Administration; 200 Constitution Ave., NW.; Washington, DC 20210 (telephone: 202–523–7894).

The data, views, and arguments that are submitted will be available for public inspection and copying at the Docket Office. All timely written submissions received will be made part of the record of this rulemaking.

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Authority: This document is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR part 1911.

Signed at Washington, DC this 5th day of November, 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90-26521 Filed 11-8-90; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CCGD11-90-08]

Anchorage Regulations; San Diego Harbor, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard establishes anchorage areas for the purpose of navigation safety. Water use areas (including anchorage areas) established by state and local jurisdictions can be established for reasons other than navigation safety. The San Diego Unified Port District (SDUPD) in conjunction with the Port of San Diego Pilots, and Commander, Naval Base San Diego (COMNAVBASE SD) have requested that the Coast Guard initiate the federal rule making process to expand the current "B" Street Commercial Anchorage (33 CFR 110.210(a)(2)) and to establish an additional anchorage ground, under the administrative control of COMNAVBASE SD, reserved exclusively for the anchorage of vessels of the United States Government.

DATES: Comments must be received on or before December 24, 1990.

ADDRESSES: Comments should be mailed to Commander (oan), Eleventh Coast Guard District, suite 702, Union Bank Building, 400 Oceangate, Long Beach, CA 90822-5399. Telephone: (213) 499-5410. The comments and other materials referenced in this notice will be available for inspection and copying at 400 Oceangate, suite 702, Long Beach, CA 90822-5399. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Edward Sinclair, Eleventh Coast Guard District Aids to Navigation and Waterways Management Branch, 400 Oceangate, Long Beach, CA 90822-5399, telephone (213) 499-5410.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CCGD11-90-08) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The proposed regualtions may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this regulation are Lieutenant Edward Sinclair, Project Officer, Eleventh Coast Guard District Aids to Nativigation and Waterways Management Branch, Lieutenant (junior grade) Edward Bass, Project Office, U.S. Coast Guard Marine Safety Office San Diego, CA, and Lieutenant Allen Lotz, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Proposed Regulations

The Eleventh Coast Guard District, via the U.S.C.G. Captain of the Port, San Diego, CA, received a request for federal rule making concerning subject anchorages. The Captain of the Port (COTP), San Diego, received written request and justification for the anchorage from the San Diego Unified Port District (SDUPD) on May 31, 1990, and from Commander, Naval Base San Diego (COMNAVBASE SD) on February 27, 1990 and March 28, 1990. The proposed anchorages have been discussed in detail at meetings hosted by the COTP San Diego between December, 1989 and April, 1990. These meetings have involved various representatives from the San Diego Port Readiness Committee (USCG COTP, Army Corps of Engineers, San Diego Unified Port District, COMNAVBASE SD), the San Diego Harbor Police, and Port of San Diego Pilots.

Federal anchorages are established under 33 U.S.C. 471. This statute authorizes the Secretary of Transportation to define and establish anchorage grounds in all harbors of the United States whenever necesary for safe navigation. The Secretary may adopt suitable rules and regulations relating to these anchorages. This power has been delegated to each Coast Guard District Commander (33 CFR 1.05-1(g)(1)). Non-federal designated use areas may be established by any state or local government which has jurisdiction over the body of water in question, provided that the designated use is compatible, and the regulations do not conflict with, federal laws or regulations.

In light of the above and after review of the requests by the SDUPD and COMNAVBASE SD, it is the position of the Coast Guard that:

(1) The Port of San Diego Pilots have experienced difficulty in anchoring commercial vessels in the current "B" Street Anchorage. The problem has intensified over the last 10 years as the merchant vessels of the world have increased in length, beam, and tonnage to cut operating costs. The current "B" Street Anchorage was not designed to accommodate these larger vessels with their greater turning radius and swing radius when at anchor. The original concept of an anchorage for two vessels at "B" Street has become unusable. Currently, it is difficult to anchor one of these larger vessels and not impede the approaches to "B" Street Terminal or Broadway Pier.

As the current "B" Street Anchorage is located adjacent to the approaches to "B" Street Terminal and Broadway Pier, there is concern due to the increase in the number of cruise ships expected to use the terminal in the near future. The cruise industry is presently expanding with a substantial increase in newly constructed cruise ships. The port of San Diego will undoubtedly be impacted, as several companies are presently considering homeporting their vessels in San Diego. For this reason, "B" Street Terminal is expected to have a substantial increase in traffic and must remain fully accessible. Further, the Port's present plans for expanding the "B" Street Terminal will increase the number of berths available. If the present anchorage is not expanded westward, or otherwise adjusted, anchored ships in the approaches to the terminal will remain as navigational hazards for ships approaching "B" Street Terminal. The proposed expansion of the anchorage would alleviate congestion of the anchorage area and the approaches to the "B" Street Terminal would be opened to allow safer navigation. This would also allow for at least two commercial ships to anchor at the same time, for which the anchorage was originally designed.

(2) The U.S. Navy historically has trained and evaluated operational Naval units in the water area south of Harbor Island and north of the main ship channel. In this area, five unregulated, non-federal anchorage areas numbered 212-216 have been charted (NOAA chart #18773) for the convenience of the U.S.

Navy. They have historically been heavily used by the U.S. Navy. Additionally, the U.S. Navy has used a similar non-designated anchorage area, which is not charted, but is known as area 217, just east of area 216. (This area would conflict with the proposed expansion of the "B" Street Commercial Anchorage, except that the Navy and SDUPD have established an informal agreement concerning Navy usage of the proposed expanded "B" Street Commercial Anchorage.)

The training which historically has been and is currently conducted in these areas is crucial to the support of the U.S. Navy's primary mission of sustained operations at sea and in furtherance of national policy for worldwide strategic deployment to insure control of critical sea lanes of communication.

During 1989, there were 891 anchorages and moorings in the areas 212–217, 284 which were of a duration of one day or more; 62 deployment on/off-loads were conducted. Demonstration of proficiency at anchoring, conducting graded exercises and evaluation of operational readiness necessitated the vast bulk of the 891 anchorings in 1989. The Navy has also submitted statistics which confirm that this large traditional presence and use of San Diego Bay continues today.

At present, there are approximately 50 recreational vessels using anchorages areas 212–214. In recent months, these vessels have made this area unusable by the Navy, and on at least two occasions, have encountered near collisions with frigate-sized naval vessels, causing significant safety concerns. The rate at which recreational vessels are making San Diego their home is still increasing (A mid-1980s study reported that the rate at which the number of recreational vessels increased was nearly 2 and ½ times the rate of the booming population growth rate in San Diego County in the early 80's). This increasing rate, combined with the shortfall in number of slips being built to accommodate these vessels, is reason to expect the number of vessels anchoring in this vicinity in the future to get larger. Unless control of these areas is obtained, the safety problem will get worse and the Navy will be forced to dramatically curtail or painstakingly rearrange its well established routine training and operating plans. Consequently, the only other alternatives would be to pursue more costly or more hazardous options.

Given this era of limited funding, the use of San Diego Harbor anchorages is the most cost effective and efficient way for the U.S. Navy to conduct critical fleet operations and training. Again, the anticipated increase in commercial and recreational harbor traffic for the coming years will exacerbate the existing shortage of berthing areas, mandating that legal control be established for these areas.

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. These proposed regulations do not change federal policy regarding the use of navigable waters for navigation purposes. Since the impact of this proposal is expected to be minimal, the Coast Guard certified that, if adopted, it will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This proposal contains no information collection or recordkeeping requirements.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal and concluded that under section 2.B.2.c of Commandant Instruction M16475.1B, it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 110 of title 33, Code of Federal Regulations, as follows:

PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.210 is revised to read as follows:

§ 110.210 San Diego Harbor, California.

(a) *The anchorage grounds.* (1) Special anchorage for U.S. Government vessels. Shoreward of a line extending from Ballast Point Light approximately 351° 30′ to the shore end of the Quarantine Dock.

(2) Special anchorage for U.S. Government vessels. An area enclosed by a line beginning at a point marked at latitude 32°43′25.6″ N., longitude 117°12′46.1″ W.; thence westerly to latitude 32°43′25.3″ N., longitude 117°12′52″ W.; thence south southwesterly to latitude 32°43′08.2″ N., longitude 117°12′58″ W.; thence south southeasterly to a point further to the south at the northern boundary of the channel marked at latitude 32°42′57.9″ N., longitude 117°12′54″ W.; thence easterly following along the northern boundary of the channel marked at latitude 32°43′05″ N., longitude 117°11′30.5″ W.; thence northeasterly to a point at the eastern edge of Harbor Island marked at latitude 32°43′27.2″ N., longitude 117°11′14″ W. Datum: NAD 83.

(3) "B" Street Merchant Vessel Anchorage. Due west from the southwest corner of the "B" Street pier head to latitude 32°43′00.8″ N., longitude 117°11′23″ W.; thence northwesterly to latitude 32°43′05″ N., longitude 117°11′30.5″ W.; thence northeasterly to latitude 32°43′27.2″ N., longitude 117°11′14″ W.; thence southeasterly to latitude 32°43′20.2″ N., longitude 117°10′53″ W.; thence due east to the shoreline; thence following the shoreline and pier to the point of beginning. Datum: NAD 83.

(b) *The Regulations.* (1) The special anchorages described in paragraphs (a)(1) and (a)(2) of this section are reserved exclusively for the anchorage of vessels of the United States Government and of authorized harbor pilot boats. No other vessels shall anchor in these areas except by special permission obtained in advance from the Commander, Naval Base, San Diego, California. The administration of these anchorages is exercised by the Commander, Naval Base, San Diego, California.

(2) The area described in paragraph (a)(3) of this section is reserved for the use of merchant vessels calling at the Port of San Diego while waiting a berth. The administration of this anchorage is exercised by the Port director, San Diego Unified Port district.

(3) Vessels anchoring in San Diego Harbor shall leave a free passage for other craft and shall not obstruct the

approaches to the wharves in the harbor.

Dated: October 16, 1990.

M.E. Gilbert,

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

[FR Doc. 90-26558 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 161

[CGD 90-048]

RIN 2115-AD62

Vessel Traffic Management in St. Marys River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the requirement for maintaining a radio listening watch on channel 16 to channel 12 for vessels in the St. Marys River Vessel Traffic Service (VTS) area. Vessels in the VTS area are presently required to maintain the listening watch on channels 16 and 13, while communicating with the Vessel Traffic Center (VTC), known as "Soo Control" on channel 12. This change would result in lessening the confusion which may occur from listening and/or communicating on three separate channels.

DATES: Comments must be received on or before January 8, 1991.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3406), (CGD 90-048), U.S. Coast Guard Headquarters, 2100 2nd St. SW., Washington, DC, 20593-0001, or may be delivered to Room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at Room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Bruce Riley, Project Officer, Navigation Safety Special Projects Staff, Tel. (202) 267-0412.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 90-048) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **"ADDRESSES."** If it determines that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Bruce Riley, Project Manager, and Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Background and Purpose

As discussed below, a vessel transiting the VTS St. Marys River Area is required to maintain a watch and/or communicate on three separate VHF/FM channels, 13, 16 and 12, while simultaneously navigating through the restricted waters of the St. Marys River.

a. The Bridge-to-Bridge Radiotelephone Regulation, 33 CFR part 26, requires a vessel to maintain a watch and communicate its intentions to another vessel on channel 13.

b. 47 CFR 80.308(1) requires a vessel to maintain a continuous watch on channel 16 (156.8 Mhz) VHF/FM, unless it is maintaining a watch on the bridge-to-bridge frequency and participating in a (VTS) while maintaining a watch on the VTS working frequency. However, the exemption does not apply in the VTS St. Marys River Area because of the requirement in § 161.820.

c. 33 CFR 161.821 requires a vessel to make reports to the Vessel Traffic Center (VTC) on channel 12 (156.6 Mhz).

Pursuant to 33 CFR 161.809, on February 6, 1989, Commander, Ninth Coast Guard District granted a deviation to § 161.820. By this deviation, mariners were relieved of the requirement to continuously maintain the watch on channel 16, and were required instead to listen on channel 12 while transiting the St. Marys River VTS Area. For purposes of evaluation, this deviation continued in effect through the 1989 shipping season. More reliable communications on channels 12 and 13 were realized. Any calls made on channel 16 to participating vessels are now relayed through the VTC. Rather than continue the deviation, this rulemaking proposes to make this a permanent change.

Discussion of Proposed Amendments

This proposal would amend § 161.820, changing the requirement for a vessel to guard channel 16 to a requirement to guard channel 12. The end result is a requirement for a vessel to guard channels 12 and 13, bothe of which are used extensively while navigating through congested waterways. The requirement to maintain a continuous guard on channel 16 causes confusion and may result in missed communications which could be vital to the safe navigation of a vessel.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

The act of requiring a vessel to guard one radio channel vice another has no economic impact because the radio channel is already available.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The number and characteristics of present users of VTS St. Marys River will not change because of this proposal and purchase or modification of radio equipment is not necessary, therefore, a requirement to guard one channel vice another will not have a major impact.

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have significant economic impact on a substantial number of small entities.

Collection of Information

The collection of information under the Paperwork Reduction Act and 5 CFR part 1320 has been approved by a blanket OMB approval for 33 CFR part 161. Approval number 2115-0540.

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES.**

List of Subjects in 33 CFR Part 161

Harbors, Navigation (water), Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 161 as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Section 161.820 is revised to read as follows:

§ 161.820 Radio Listening Watch.

The master of a vessel in the VTS Area shall continuously monitor channel 13 VHF/FM (156.65 Mhz) and channel 12 VHF/FM (156.6 Mhz).

Dated: November 6, 1990.

R.A. Appelbaum,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 90-26559 Filed 11-8-90; 8:45 am]

BILLING CODE 4910-14-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1253, 1254, and 1280

RIN 3095-AA19

Research Room Procedures

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Archives and Records Administration (NARA) is update 36 CFR part 1253 to reflect both Saturday research room hours at the Washington National Records Center and changes in the titles, addresses, and telephone numbers of the National Archives Field Branches. NARA is also proposing to amend its regulations in 36 CFR part 1254 concerning NARA research rooms to clarify eligibility for researcher identification cards, to provide a procedure for withdrawing research privileges for researchers not required to haver a researcher identification card, to clarify self-service copier procedures, and to update other research room procedures. In 36 CFR part 1280, NARA is proposing to implement a policy that children under the age of 16 must be accompanied by an adult when visiting a NARA facility, including exhibition areas. The proposed rule would affect individuals who perform research at NARA facilities.

DATES: Comments must be received by December 10, 1990.

ADDRESSES: Comments should be sent to Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: John Constance or Nancy Allard at 202-501-5110.

SUPPLEMENTARY INFORMATION: This proposed rule clarifies in § 1254.4 that a researcher identification card is not required and will not be issued to an individual when NARA does not have the requested records or when the individual's needs can be met by a secondary source readily available at a library or other institution rather than by the original records or reference copies.

In § 1254.20 (c), NARA proposes to add a procedure for withdrawing research privileges from a researcher using microfilm in a separate microfilm reading room if the researcher does not comply with NARA rules or is otherwise disruptive. This procedure is similar to the procedure in § 1254.20 (b) for revoking researcher identification cards. NARA would withdraw research privileges only when a researcher refused to comply with NARA rules or demonstrated by his or her actions that he or she was a threat to NARA property or a danger or nuisance to other researchers or to NARA employees. The procedure provides for an appeal to the Archivist of the United States and reinstatement of research privileges after a period of six months.

Section 1254.26 is being amended to clarify that research rooms in the National Archives Building and Washington National Records Center in which original records are used are reserved for individuals examining records and other materials in NARA custody. Individuals (including children) who currently accompany a researcher into one of these research rooms but who do not perform research would not be admitted to the research room under this proposed provision.

The section is further amended to provide a procedure for students under the age of 16 who wish to perform research on original records to obtain NARA research privileges. Student researchers must present a letter of reference from a teacher and normally must be accompanied by a responsible adult researcher.

The proposed rule also clarifies self-service copier procedures in § 1254.71. NARA now has a number of self-service copiers, intended for copying small quantities of records, as well as self-service copiers, intended for copying larger quantities of records, which can be reserved over a longer period of time. The section has been revised to cover both types of self-service copiers and to update procedures for purchasing debitcards to operate the copiers and for obtaining refunds of unused amounts on debitcards.

Finally, the proposed rule makes several minor changes to existing research room procedures and modifies the signature authority for denial of Freedom of Information Act (FOIA) requests in part 1254. In § 1254.2, the mailing address to which inquiries may be sent has been updated. Section 1254.12 is revised to provide that researchers using records other than microfilm must return those records to the research room attendant as much as 15 minutes before closing time, while researchers using microfilm must refile the microfilm in the proper place instead of placing rolls on top of the microfilm cabinet. Section 1254.38 is modified to allow directors or regional archives to make denials under the FOIA of access to archives.

In part 1280, a new § 1280.2 is being added to require that children under the age of 16, other than students who are permitted to conduct research without adult supervision, be accompanied by an adult at all times while on NARA property. Directors of NARA field facilities are authorized to establish a lower age limit. The intent of this rule is to eliminate instances where children are left unsupervised in one area of a NARA facility while those responsible for the children are in another area. This rule complements § 1254.26, discussed above, which would prohibit individuals who are not doing research from accompanying researchers in the National Archives Building's Central

Research Room or the Washington National Records Center's Research Room. Under the proposed rules, researchers would not be allowed either to bring children into the affected research rooms unless the children were themselves doing research; or to leave the children unsupervised by an adult outside the research room while the researchers were doing research.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects

36 CFR Part 1253

Archives and records.

36 CFR Part 1254

Archives and records, Confidential business information, Freedom of information, Micrographics.

36 CFR Part 1280

Federal buildings and facilities.

For the reasons set forth in the preamble, NARA proposes to amend 36 CFR chapter XII as follows:

PART 1253—LOCATION OF RECORDS AND HOURS OF USE

1. The authority citation for part 1253 continues to read as folllows:

Authority: 44 U.S.C. 2104(a).

2. Section 1253.4 is revised to read as follows:

§ 1253.4 Washington National Records Center.

Washington National Records Center, 4205 Suitland Road, Suitland, MD. Mailing address: Washington National Records Center, Washington, DC 20409. Hours: 8 a.m. to 4:30 p.m., Monday through Friday, for the Suitland Research Room, 8 a.m. to 4:30 p.m., Monday through Saturday.

3. Section 1253.6 is amended by revising the section heading, by removing the introductory text and paragraph (d), by redesignating paragraphs (e) through (m) as paragraphs (d) through (l), and by revising paragraphs (c) and newly redesignated (e) to read as follows:

§ 1253.6 Federal Records Centers.

* * * * *

(c) 5000 Wissahickon Avenue, Philadelphia, PA 19144. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

* * * * *

(e) 3150 Springboro Road, Dayton, OH 45439. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

* * * * *

4. Section 1253.7 is added to read as follows:

§ 1253.7 Regional Archives System.

Some of the Regional Archives may offer extended research room hours on selected evenings and Saturdays. More specific information on extended hours is available from each Regional Archives. The hours listed in this section are the minimum hours that each Regional Archives is normally open.

(a) *National Archives—New England Region.* 380 Trapelo Road, Waltham, MA 02154. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (617) 647-8100.

(b) *National Archives—Northeast Region.* Building 22, Military Ocean Terminal, Bayonne, NJ 07002-5388. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (201) 823-7545.

(c) *National Archives—Mid-Atlantic Region.* 9th and Market Streets, Room 1350, Philadelphia, PA 19107. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (215) 597-3000.

(d) *National Archives—Southeast Region.* 1557 St. Joseph Avenue, East Point, GA 30344. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (404) 763-7477.

(e) *National Archives—Great Lakes Region.* 7358 South Pulaski Road, Chicago, IL 60629. Hours: 8 a.m. to 4 p.m., Modnay through Friday. Telephone: (312) 581-7816.

(f) *National Archives—Central Plains Region.* 2312 East Bannister Road, Kansas City, MO 64131. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (816) 926-6272.

(g) *National Archives—Southwest Region.* 501 West Felix Street, Fort Worth, TX. Mailing address: P.O. Box 6216, Fort Worth, TX 76115. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (817) 334-5525.

(h) *National Archives—Rocky Mountain Region.* Denver Federal Center, Building 48, Denver, CO. Mailing address: P.O. Box 25307, Denver, CO 802225. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (303) 236-0817.

(i) *National Archives—Pacific Sierra Region.* 1000 Commodore Drive, San Bruno, CA 94066. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (415) 876-9009.

(j) *National Archives—Pacific Southwest Region.* 24000 Avila Road, Laguna Niguel, CA. Mailing address: P.O. Box 6719, Laguna Niguel, CA 92677-6719. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone (714) 643-4241.

(k) *National Archives—Pacific Northwest Region.* 6125 Sand Point Way, Seattle, WA 98115. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone (206) 526-6507.

(l) *National Archives—Alaska Region.* 654 West 3rd Avenue, Anchorage, AK 99501. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone (907) 271-2441.

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

5. The authority citation for part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101-2118.

6. Section 1254.2 is amended by revising paragraph (a) to read as follows:

§ 1254.2 Location of records and hours of use.

(a) Researchers should identify the location of the records needed. Inquiries may be addressed to the National Archives (NNRS), Washington, DC 20408.

* * * * *

7. Section 1254.4 is amended by redesignating paragraphs (d) through (f) as paragraphs (e) through (g) and by adding new paragraphs (d) to read as follows:

§ 1254.4 Research procedures.

* * * * *

(d) A researcher will not be issued a researcher identification card if the branch chief or director of the relevant repository determines that:

(1) the records which the researcher wishes to use are not in the legal custody of NARA; or

(2) the researcher is not interested in records maintained by NARA but in information contained in secondary sources available at other institutions.

8. Section 1254.12 is revised to read as follows:

§ 1254.12 Researcher's responsibility for records.

(a) The research room attendant may limit the quantity of records delivered to a researcher at one time. The researcher must sign for the records received. The researcher is responsible for all records delivered to him/her until he/she returns them. When the researcher is finished using the records, the records should be returned to the research room attendant. The reference service slip that accompanies the records to the research room must not be removed. If

asked to do so, the researcher must return records as much as 15 minutes before closing time. Before leaving a research room, even for a short time, a researcher must notify the research room attendant and place all records in their proper containers.

(b) When microfilm is available on a self-service basis, research room attendants may assist researchers in identifying which roll(s) of film contains the information of interest, but the researcher is responsible for locating the roll(s). Unless otherwise permitted, a researcher is limited to one roll of microfilm at a time. After using each roll, the researcher must refile the roll of microfilm in the location from which it was removed, unless instructed otherwise.

9. Section 1254.20 is amended by adding new paragraph (c) to read as follows:

§ 1254.20 Conduct.

* * * * *

(c) *Withdrawal of research privileges for researchers not required to have a researcher identification card.* If researchers who are not required to have researcher identification cards refuse to comply with the rules and regulations of a NARA facility or by their actions demonstrate that they present a danger to NARA property or a danger or nuisance to other researchers or employees, NARA may withdraw all research privileges. A researcher whose research privileges are withdrawn under this paragraph will lose research privileges at all NARA research rooms, including those for which no researcher identification card is required. A researcher whose research privileges have been withdrawn may not apply for a researcher identification card, or for readmittance to research rooms not requiring a research card, until research privileges have been restored (see below). A researcher whose research privileges are withdrawn under this paaragraph will be sent a written notice of the reasons for the withdrawal within 3 workdays. The researcher has 30 calendar days after the withdrawal to appeal in writing to the Archivist of the United States (address: National Archives and Records Administration (N), Washington, DC 20408) for reinstatement of research privileges. The Archivist of the United States has 30 calendar days from receipt of the appeal to decide whether or not to reinstate the research privileges. If the withdrawal is upheld or if no appeal is made, the researcher may request reinstatement of privileges no earlier than 180 calendar days from the date the privileges were revoked. If readmission to a NARA facility poses a threat to the safety of persons or property, NARA may continue to extend the withdrawal period for 180-day periods. The researcher will be notified in writing of all such extensions within 3 workdays of NARA receiving a request for reinstatement of research privileges. The researcher may appeal any decision to extend the withdrawal of research privileges to the Archivist of the United States. All appeals must be made in writing to the Archivist of the United States within 30 calendar days of the decision being appealed.

10. Section 1254.26 is amended by redesignating paragraphs (a) through (f) as paragraphs (b) through (g), by adding a new paragraph (a) and revising the newly redesignated paragraph (b) to read as follows:

§ 1254.26 Additional rules for use of research rooms in the National Archives and Washington National Records Center buildings.

(a) Admission to research rooms in the National Archives Building and Washington National Records Center at which original records are made available is limited to individuals examining and/or copying records and other materials in the legal custody of the National Archives and Records Administration. Children under the age of 16 will not be admitted to these research rooms unless they have been granted research privileges. Students under the age of 16 who wish to perform research on original documents must apply in person to the Chief of the Reference Services Branch and present a letter of reference from a teacher. Students under the age of 16 who have been granted research privileges will be required to be accompanied in the research room by an adult with similar privileges, unless the Chief of the Reference Services Branch specifically waives this requirement with respect to individual researchers.

(b) The procedures in paragraphs (c) through (g) of this section shall apply to all research rooms in the National Archives and Washington National Records Center buildings, except the Microfilm Research Room and the Motion Pictures Research Room in the National Archives Building. These procedures are in addition to the procedures specified elsewhere in this part.

* * * * *

11. In § 1254.38, paragraph (e) is revised to read as follows:

§ 1254.38 Freedom of Information Act requests.

* * * * *

(e) *Denial of access.* Denials under the FOIA of access to archives are made by the appropriate director of a Presidential library or a regional archives or the Assistant Archivist for the National Archives, who, within 10 workdays, shall notify the requester of the reasons for the denial and of the procedures for appeal.

* * * * *

12. Section 1254.71 is revised to read as follows:

§ 1254.71 Researcher use of the self-service card-operated copiers in the National Archives Building and the Washington National Records Center.

(a) *General.* Self-service card-operated copiers are located in research rooms in the National Archives Building and the Washington National Records Center. Other copiers set aside for use by reservation are located in designated research areas. Procedures for use are outlined in paragraphs (b) through (g) of this section.

(b) *Hours of use.* (1) Copiers located in research rooms in the National Archives Building and the Washington National Records Center may be used until 15 minutes prior to the closing of the research room. There is a three-minute time limit on these copiers when others are waiting to use the copier. Researchers wishing to copy large quantities of records should see a staff member in the research room to reserve a copier for an extended time period.

(2) Reserved self-service copiers located in the designated research area on the second floor of the National Archives Building may be used between 9 a.m. and 12 noon and between 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays. The reserved self-service copier located in the designated research area at the Washington National Records Center may be used between the hours of 8 a.m. and 12 noon and between 1 p.m. and 4 p.m., Monday through Friday, except Federal holidays.

(i) Copiers may be reserved for one hour at a time in the National Archives Building and for one-half hour at a time in the Washington National Records Center. Another appointment may be reserved after completing the scheduled appointment. The appointment may be forfeited if the researcher does not arrive within 10 minutes after the scheduled time.

(ii) If an appointment must be canceled due to copier failure, NARA will make every effort to schedule a new mutually agreed-upon time. However, NARA will not displace researchers

whose appointments are not affected by the copier failure.

(c) *Copying procedures.* (1) Individual documents to be copied shall be tabbed in accordance with the procedures governing the tabbing of documents and returned to their container. The research room attendant will examine the records to determine whether they can be copied on the self-service copier. The chief of the branch administering the research room will review the determination of suitability if asked to do so by the researcher.

(2) Researchers using the reserved copiers must submit the containers of records to the attendant for review at least one hour prior to the scheduled appointment. The research room staff will deliver the containers to the designated area where the reserved copiers are located. Researchers using self-service copiers located in the research room will transport their containers of records to the copier themselves.

(3) Researchers may copy from only one box and one folder at a time. After copying the records, the researcher must show the original records and the copies to a research room attendant.

(d) *Records not suitable for self-service copying.* The following types of records may not be copied on the self-service copiers:

(1) Bound archival volumes;

(2) Records fastened together by staples, clips, acco fasteners, rivets, or similar fasteners, where folding or bending records may cause damage;

(3) Records larger than 11 inches by 14 inches;

(4) Records with uncanceled security classification markings;

(5) Records with legal restrictions on copying; and

(6) Records which, in the judgment of the research room attendant, are in poor physical condition.

(e) *Cancellation of security classification markings.* (1) Security classification markings (RESTRICTED, CONFIDENTIAL, SECRET, TOP SECRET, and others) on declassified records must be properly canceled before documents are copied. Only a NARA staff member can cancel security markings. Properly declassified documents will bear the declassification authority.

(2) Researchers may not remove from the research room copies of documents bearing uncancelled classification markings. Copies of documents with uncancelled markings will be confiscated.

(3) When individual documents are being copied, the research room staff will cancel the classification markings on each page and will place the declassification authority on the first page of each document. If the researcher is copying only selected pages from a document, the researcher must make a copy of the first page bearing the declassification authority and attach that page to any subsequent page(s) copied from the document. This declassification authority must be presented to the guard when copies of documents are removed from the research room and/or the building.

(4) Researchers using the reserved copiers and provided with a declassification strip which is attached to the copier. The strip, which is reproduced on each page copied, cancels the security markings.

(f) *Purchasing debitcards for copiers.* Researchers may use cash to purchase a debitcard from a vending machine during the hours that self-service copiers are in operation. Additionally, debitcards may be purchased with cash, check, money order, or funds from an active deposit account from the Cashiers Office located in Room G–1 of the National Archives Building, between the hours of 8:45 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. During the evening and weekend hours, the research room supervisor can make change for $20 or less. The debitcard will, when inserted into the copier, enable the user to make copies, for the appropriate fee, up to the value on the debitcard. Researchers may add value to the debitcard by using the vending machine. The fee for self-service copies is found in § 1258.12 of this chapter.

(g) *Refunds of unused amounts on debitcards.* (1) To obtain a refund of any unused amount on a debitcard, a researcher must bring the debitcard to the Cashier's Office in room G–1 of the National Archives Building. Cash refunds for debitcards are currently limited to $10.00 or less. Refunds due for more than $10.00 are currently paid by U.S. Treasury check in approximately 6–8 weeks. NARA may increase the maximum cash refund amount upon waiver by the U.S. Department of the Treasury of applicable regulation. Refunds due on debitcards obtained using funds from a deposit account will be made by crediting the refund to the deposit account.

(2) An NATF Form 30A, Request for Debit Card Refund or Credit, must be submitted to the Cashier's Office. The form is available from the research room staff or the Cashier. During evening hours and on Saturday, researchers should enclose the completed form and debitcard in the preaddressed envelope, also available in the research room. The envelope may be dropped through the mail slot in Room G–2 or mailed to the Cashier.

PART 1280—PUBLIC USE OF FACILITIES

13. The authority citation for part 1280 continues to read:

Authority: 44 U.S.C. 2104(a).

14. A new § 1280.2 is added to read as follows:

§ 1280.2 Admittance of children under the age of 16.

Children under the age of 16 will not be admitted to NARA facilities unless accompanied by an adult. Children under the age of 16 must be supervised by the accompanying adult at all times while on NARA property. The director of a NARA facility may authorize a lower age limit for admission of unaccompanied children to meet local circumstances, e.g., students who have been given permission to conduct research without adult supervision.

Dated: November 5, 1990.

Don. W. Wilson,

Archivist of the United States.

[FR Doc. 90–26536 Filed 11–8–90; 8:45 am]

BILLING CODE 7515-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB38

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule to List the Plant Salpingostylis coelestina (Bartram's Ixia) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of withdrawal.

SUMMARY: The Service gives notice of the withdrawal of the proposed regulation to list *Salpingostylis coelestina* (Bartram's ixia) as endangered, pursuant to the Endangered Species Act of 1973, as amended. This plant occurs in grassy pinelands, planted pine forests, and road and powerline rights-of-way in seven counties in northeastern Florida. Based on evaluation of data available following publication of the proposal and evaluation of comments, the Service has determined that listing of Bartram's ixia is not warranted at the present time, although urbanization of its habitat, if not accompanied by appropriate conservation measures, may require its listing in the foreseeable future. The

Service expects to work with the forest products industry to monitor the status of this plant in commercial forest lands.

ADDRESSES: The complete file for this action is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216 (904/791-2580 or FTS 946-2580).

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Field Supervisor, at the above address.

SUPPLEMENTARY INFORMATION:

Background

Salpingostylis coelestina (Bartram's ixia) is a grassy-leafed herb belonging to the iris family (Iridaceae). This plant was first collected, illustrated, and described by William Bartram as *Ixea caelestina* (Harper 1959, pp. 98, 99, 360). Small (1931) created a new genus, *Salpingostylis*, for this plant. Foster (1945) and Goldblatt (1975) assigned the plant to the genus *Sphenostigma*, but since then, for nomenclatural reasons, the name *Sphenostigma* can no longer be applied to Bartram's ixia (R. Goldblatt, Missouri Botanical Garden, St. Louis, *in litt.* July 1988). Until the taxonomy of this part of the iris family is clarified. Small's name, *Salpingostylis coelestina*, may be used.

Salpingostylis coelestina is a perennial herb about 30 centimeters (1 foot) tall. The bulb is dark brown with a papery coating. The basal leaves are narrowly linear, 20-30 centimeters long. The flower stalk (scape) rises from the ground and has a spathe with one or two flowers, which are 5 centimeters (2 inches) across, usually opening at dawn (by 9 a.m. on a cool morning), and withering by 11 a.m. (later on a cloudy day). The flowers are violet when they open, fading to blue-lavender before they wilt. Flowering may start as early as April, peaks sharply near Memorial Day, and continues through July. Sporadic flowering may occur as late as early November in response to fire or site disturbance (Ward 1979: Goldblatt 1975: Martin 1989; M. Peacock, *pers. comm.* 1988; E. Geiger, consulting forester, Jacksonville, *pers. comm.* 1989: other foresters, *pers. comm.* 1989).

Bartram's ixia is native to flatwoods with an understory of wiregrass, other grasses, herbs, and low shrubs (but not palmetto thickets). The understory burns readily, and frequent understory fires are characteristic of flatwoods (Clewell 1986). In the past 30 years, a majority of the pine timberland in Baker, Bradford, Clay, Putnam, and St. Johns Counties have been converted to planted stands (USDA Forest Service, Southeastern Forest Experiment Station, Forest Inventory and Analysis. Forest Information Retrieval runs; 1987 inventory data. Data obtained by ITT Rayonier Inc.). A large portion of the known range of the ixia is on land owned or managed by the forest industry.

In flatwoods managed for cattle grazing, as well as in planted pine managed for pulpwood, Bartram's ixia flowers the spring after a fire, but not in subsequent years. At clearcut and replanted pine plantations, large numbers of ixia flowers have been observed in bare, disturbed ground, with abundant flowering for at least two or three years after cutting. Smaller numbers of flowers have been observed in recently-plowed fire breaks (Martin 1989, Rayonier 1990, other data submitted by the forest companies). The plants are conspicuous only in flower.

Murrill (1940) and others worked out the ixia's general distribution; recent surveys provided detailed information. Its range is: Duval County between the St. Johns River and Cecil Field near Ed White High School and Herlong Field, and near the Clay County line; Mandarin near Julington Creek: St. Johns County north of Tocoi Creek and west of Twelvemile Swamp; Clay County excluding Trail Ridge and the lake area around Keystone Heights; Putnam County from State Road 100 northward and east of Georges Lake; Bradford County between Starke, Lawtey, and Florida State Prison, and north of Santa Fe Swamp; Baker County south of county road 130, west of New River Swamp, and east of county road 229; Northeastern Union County (Martin 1989; Peacock and Peacock 1989; ITT Rayonier, Georgia-Pacific, and Southwood Realty, *in litt.* 1989 and 1990; Union Camp, Nekoosa Packaging, and Jefferson Smurfit & Container Corporation of America, *pers. comm.* 1990). This range covers approximately 550 square miles.

The ixia has been reported to occur elsewhere. Foster (1945) cited Francis Harper's opinion that Bartram had collected the ixia at Kanapaha Prairie, Alachua County. Foster saw a specimen from "Duval or Nassau County: near Thomas Creek, branch of the Nassau River". The plant may also occur near East Palatka (E. Matthews, Bradford Telegraph, Starke, Florida, *pers. comm.* 1990).

Bartram's ixia usually occurs on poorly drained soils. Such soils may be within a few yards of excessively drained sites with bluejack oak. At one site with intact native vegetation, the ixia is restricted to the grassy margins of shallow depressions, where it occurs with wiregrass (*Aristida stricta*), purple pitcher plant (*Sarracenia purpurea*), and *Aletris*. Murrill (1940) described the plant as growing in and beyond the slash pines at the edges of flatwoods ponds, with the plants mentioned above as well as *Asclepias michauxii, Hypoxis juncea*, and *Psoralea virgata*. Bartram's ixia occurs along the grassy edges of rights-of-way of paved roads, usually with *Aletris, Calopogon* orchids, and in Clay County, *Rudbeckia nitida*, a coneflower (Martin 1989; Peacock and Peacock 1988).

Herbarium specimens and observations (Murrill 1940, Ward 1979, Wunderlin et al. 1980) indicate that flowering populations of Bartram's ixia have become less easy to find as pine flatwoods have been converted to pine plantations, and as the frequency of burning apparently declined. Some site preparation methods associated with forestry (bulldozing, root raking, bedding, chopping) are likely to destroy or damage Bartram's ixia bulbs (Kral 1983) even though such disturbance stimulates surviving bulbs to flower. The shady conditions of maturing pine plantations may be unfavorable to the ixia. This is the case for other understory pineland plants; which persist under the first planted stand of pines, but become less important or disappear in subsequent rotations (Clewell 1986). It is possible that Bartram's ixia plants flowering in cutover areas produce enough seedlings to replace any individuals destroyed by logging and site preparation, or that died due to excessive shade. Data on the demography of this species through the cycle of tree harvest, site preparation, replanting, and regeneration would be of great value for understanding the conservation needs of this species and possibly species with similar life histories, such as *Nemastylis floridana* (fall ixia) and possibly *Zephyranthes* (Atamasco lilies).

Stand history information provided by ITT Rayonier (*in litt.* 1990) shows that the ixia flowers in abundance when the first stand of pines to be planted on a site (usually planted in the early 1960s, sometimes earlier) is harvested. Most of these plantations had been control burned every 3 to 5 years; at least some stands had abundant wiregrass. In Clay and Baker Counties, large numbers of flowering ixia plants have been observed on sites where pine plantations had recently been harvested. The abundance of Bartram's ixia in commercial forest land at the present time indicates that any threat to this species from forest management

practices is long-term rather than immediate. The Service expects to work with the forest industry to develop a program for monitoring the demography of Bartram's ixia in commercial forest land.

The Service published a proposal to list Bartram's ixia as endangered (**Federal Register**, May 19, 1989; 54 FR 21632) based on information available in 1980, augmented by data gathered in 1987 and 1988 (Martin 1989, Peacock and Peacock 1988). In response to several requests, a public hearing was held on August 3, 1989 (54 FR 29915). The comment period on the proposal was subsequently reopened until July 2, 1990 (55 FR 6660) to allow private landowners to collect additional data on the ixia's distribution and abundance during its 1990 flowering season. The deadline for publishing a final listing decision was extended in the same **Federal Register** notice to November 19, 1990.

Summary of Comments and Recommendations

In the May 19 proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate state agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Bradford County Telegraph*, June 1, 1989; the *Florida Times-Union*, Jacksonville, June 3, 1989; the *St. Augustine Record*, June 3, 1989; and the *Palatka Daily News*, June 8, 1989. A public hearing was held on August 3, 1989 (advertised in the *Florida Times-Union*, July 16, 1989), and the proposed rule's comment period was extended on request of the forest products industry, which desired sufficient time to collect field data on this species (advertised in the *Florida Times-Union* April 23, 1990).

The public hearing was attended by a total of 38 persons. Of the 10 who made statements, 8 were opposed to listing Bartram's ixia or were critical of the proposal, 1 was neutral, and 1 was in favor of listing.

Thirty-three letters or telephone calls commented on the proposal or provided information. The Florida Department of Agriculture and Consumer Services, the Florida Natural Areas Inventory, and a county commissioner supported the proposal, along with 12 letters from individuals or garden clubs. One member of Congress expressed concern over the proposal; two other members forwarded concerns of constituents or others for response by the Service, as did a member of the Florida legislature. Four forest products companies or their subsidiaries, and one environmental consulting firm opposed listing the plant, as did the Florida Forestry Association and a county timber growers association. Six letters supplied information but did not have an opinion on whether to list the plant. In addition, five forest products companies and a county forester submitted data on the ixia's distribution collected during the 1990 flowering season.

Specific issues raised by the comments are listed below with the Service's response to each:

Issue 1: The proposal is based on inadequate surveys that failed to search outside the previously known range of Bartram's ixia and missed extensive private lands within the known range. Large populations may exist in 1.6 million acres of commercial timberland in the six-county range. At least several populations may comprise over 50,000 individuals. Private studies indicate that the Service underestimated the number and size of ixia populations. For example, one company's forest managers located 12 additional sites in 4 days by examining recently disturbed areas. One comment asked why the Service proceeded to propose to list the ixia after so many years of delay, when "sound scientific methodology and responsibility to the public requires a better inventory prior to listing"?

Service response: The general range of Bartram's ixia was reliably known before the latest surveys began, due to work by botanists since about 1908 (Murrill 1940). New surveys relocated known sites, then searched nearby, similar areas. Martin (1989) covered about 1800 miles of road on 25 days and Peacock and Peacock (1988) covered about 1000 miles of road. The effectiveness of these surveys is confirmed by independent surveys conducted by the forest products industry in 1990; the most important discovery by these surveys was rediscovery of ixia sites north of Santa Fe Swamp in Bradford County. The Service did not attempt to estimate the number of ixia populations; the proposed rule described the extent of the plant's range and noted the existence of at least one large population in a recently-harvested commercial forest land. The Service appreciates the forest product industry's reports of additional sites. The Service proposed to list Bartram's ixia as soon as it considered adequate scientific data to be available.

Issue 2: The proposed rule is contrary to the conclusions of an independent survey funded by the State (Florida Natural Areas Inventory (FNAI)) (Peacock and Peacock 1988, and public hearing comment by Marsha Peacock that there is not enough information on the ixia).

Service response: The proposed rule stated that not all populations of the plant are known, in keeping with the Peacocks' conclusions. The FNAI supported listing of the plant.

Issue 3: The Peacocks' survey found 22 sites in 11 days, while only 12 sites were recorded in the scientific literature, and they saw more of the plant than anyone else.

Service response: The Peacocks attempted to visit the 12 sites in the FNAI database. They also had access to other, older, herbarium records and Martin's 1987 results (Martin 1989). Murrill (1940) and his contemporaries probably saw very large flowering populations of this plant.

Issue 4: The Service has no evidence that the suitable habitat for Bartram's ixia is significantly shrinking or that the number of ixia plants has declined since the 1700s.

Service response: Murrill (1940) provides circumstantial evidence that the ixia was formerly much more conspicuous and probably more abundant in the Starke area. Ward (1979) mentioned destruction of a large population near Starke. Urban expansion in westside Jacksonville, northeastern Clay County, and northwestern St. Johns County is obviously destroying ixia habitat. The preparation of complex, costly applications for Developments of Regional Impact by large landowners in the plant's range provides evidence that these large development projects are expected to generate greater profits than pulpwood.

Issue 5: The ixia's range is unverified, as shown by a discrepancy about its occurrence in Union County between the proposed rule and Ward (1979) as well as a newspaper legal advertisement for the public hearing.

Service response: Herbarium specimens of ixia had been collected in Union County near its border with Baker County, but Martin did not find the plant there. A comment on the proposal confirmed that the plant still occurs in Union County.

Issue 6: Power line and road rights-of-way may protect adequate habitat for Bartram's ixia.

Service response: Rural power lines and some road rights-of-way are valuable habitat for many pineland plant species, and management of these areas offers opportunities to conserve

the flora, including Bartram's ixia. The Service is concerned that road widening, construction of underground utilities, herbicide use, and urbanization adjacent to rights-of-way can destroy the native flora.

Issue 7: The ixia stays dormant for as long as 20 years, and is frequently found in second rotation plantations. Documentation was provided by the commenting forest products company.

Service response: Most sites for which data were presented were first-generation plantations, but the prospects for the ixia persisting in second-rotation plantations appear good.

Issue 8: Several comments disagreed with statements in the proposal and a newspaper notice, that the listing would have little or no effect on state or county agencies, or the activities of private citizens on their own land. The comments asserted that the Federal Government's links with states and private citizens result in mandates to not jeopardize listed species for activities such as road and culvert construction, placement of utilities in public rights-of-way, federal loan guarantees, and herbicide applications. Because most populations of Bartram's ixia are on private lands, the burden of this regulation will fall on private landowners. Another comment cited, as an example of the true implications of listing the plant, comments by the Service's Jacksonville Field Office, submitted to the Regional Planning Council, on an application for a Development of Regional Impact. The comments recommended on-site or off-site conservation measures for the ixia.

Service response: Federal activities, including permits, that might affect endangered or threatened plants are regulated through the consultation process of section 7 of the Endangered Species Act. Federal activities or permits rarely jeopardize the continued existence of a plant species, so section 7 is rarely invoked to protect plants. It is not known at this point whether listing would affect routine herbicide use in forestry. Federal listing of endangered and threatened species is intended to encourage conservation actions by state and local governments; such conservation actions are undertaken within the scope of their own authority.

Issue 9: Until a management plan is jointly developed and reviewed by the Service and private landowners, neither can determine the effects of proposed listing. Two comments stated that the Service cannot prepare a site-specific recovery plan with the available information, so if the plant is listed now, any protection to be gained through recovery planning is illusory. Therefore, the Service should gather sufficient information to plan the plant's recovery before proposing to list it.

Service response: The Endangered Species Act requires that species be listed as endangered or threatened based on the best scientific data available, when the data are sufficient to show that listing is warranted. The Act does not require that sufficient data be available to plan recovery. Before a recovery plan is approved, the Service must provide public notice and an opportunity for public review and comment.

Issue 10: The ixia's biology needs to be better understood so habitat requirements can be defined. The ixia's response to disturbance needs to be better understood. Present forest management practices, such as control burning and site preparation may encourage the plant. At least two comments pointed out that prescribed burning of pinelands, which is likely to be encouraged by any recovery plan, is inhibited by landowners concerns over liability. One forest products company offered assistance to install field trials to evaluate effects of various silvicultural activities on plant survival and reproduction.

Service response: The ixia's persistence in pine plantations is the main reason for withdrawing the proposal; the Service concurs that there is a need to better understand the response of the plant to management practices. Field trials could be quite valuable. The Service is encouraged that the 1990 Florida legislature addressed the problem of landowner liability for prescribed fire. The Service notes, however, that the threat of urbanization may in the future require listing, regardless of its status in privately owned forest land.

Issue 11: How would private landowners be regulated if the ixia is listed? Since the plant can lay dormant, how will it be determined whether land may be developed without first either burning it or turning over the soils? How would a purchaser of land be protected, without knowing if the plant exists on the property? Which agency is responsible for construction permitting and development?

Service response: Permits for development of land with endangered or threatened plants are almost always a local or state matter for land with endangered or threatened plants, because the Endangered Species Act does not prohibit take of endangered or threatened plants on private land. If a plant is listed and a construction project requires a Corps of Engineers dredge and fill permit, then consideration of the effects of the project on listed plants would be required. A Florida State government agency has considered requiring applicants for permission to build large projects to effectively inventory their land for Bartram's ixia by burning or disturbing suitable ixia habitat before searching for flowers; such a requirement is being considered under the State's authority.

Issue 12: The proposal cited no authoritative surveys or statistics to indicate that urban sprawl will reach into most of the six county range (in excess of 5 million acres) within the remotely foreseeable future; an economic slowdown means no major habitat destruction within the coming year. Ward (1979) suggested that the largest populations are in Bradford and Clay Counties, where the urbanization threat is minimal.

Service response: The Service reviews applications for Developments of Regional Impact (DRIs); statements in the proposal about such applications reflect Service review, although newspaper stories are referenced. Applicants for DRIs are unlikely to go through the considerable cost of application unless they expect the projects to materialize. The listing proposal relied on estimates of future population growth prepared by the University of Florida Bureau of Economic and Business Research and published annually in *Florida Trend* magazine. The Service notes that considerable ixia habitat appears to already have been destroyed, as stated in the proposal. The comment overstates the size of the known range of the ixia by an order of magnitude (see "Background" section).

Issue 13: Overutilization is not a problem because cultivated plants have survived well. The plant is not affected by natural disaster or disease because it has survived in its range since Bartram.

Service response: The Service concurs, but notes that the ability of a plant to thrive in cultivation has no relation to its status in the wild.

Issue 14: The proposal lacked an economic impact analysis.

Service response: Economic analysis is required only when critical habitat is proposed.

Issue 15: The proposed rule and newspaper legal advertisements of it are inaccurate, legally insufficient, and misleading; as such, they are arbitrary and capricious. The inaccuracies will render any subsequent rule invalid. Misleading statements include those minimizing the effect of listing on private landowners, because the plant occurs only on private property and

recovery programs would of necessity impact private landowners. The public cannot be put on meaningful notice unless the Service includes a detailed plan for recovery or other activities.

Service response: The Service considers the proposal and its advertisements to be accurate and sufficient, for reasons described above, particularly under issue 8.

Issue 16: The proposal is invalid because the Service lacks the authority to list species without a proper petition. The Smithsonian report was not an adequate petition, and even if it were, the Service had abrogated its validity by failing to follow its own timetables and procedures.

Service response: The Endangered Species Act does not require a petition as a precondition for listing. Nevertheless, the Service's handling of the 1975 Smithsonian report satisfies the petition requirements of the Endangered Species Act.

Issue 17: A plant conservation organization pointed out results of their survey of U.S. botanists which indicated that this is one of some 700 United States plant taxa that could become extinct within the next 10 years in the absence of conservation efforts such as listing.

Service response: The poll was useful for identifying which species need attention, but recently collected field data and firsthand observation of this plant are more reliable for determining whether to list this particular species.

Issue 18: The amount of ixia is decreasing rapidly in northwest St. Johns County south to State Road 210, and the plant is expected to completely disappear from this area within ten years. Similar commercial and residential development elsewhere in the range of this plant will destroy habitat and eliminate populations of this plant.

Service response: The Service expects that substantial populations of Bartram's ixia will remain in this area ten years from now, but the outlook for the longer term is unknown. Considerable habitat currently occupied by this plant in this county can be destroyed before it is threatened with extinction.

Issue 19: Dramatic changes in forestry practices such as plantation development, mechanical harvest, site preparation and associated disruption of natural fire cycles in these flatwoods communities will have long-term implications to the survival of Bartram's ixia. It is evident that continued mechanical ground disturbances may eliminate or detrimentally affect this species.

Service response: Commercial forestry practices probably are not especially favorable for this plant, but so far it has persisted under such practices.

Issue 20: Bartram's ixia does not occur on protected sites.

Service response: The Service concurs, but is hopeful that the State or the St. Johns Water Management District may purchase habitat and that management of the State's Camp Blanding may protect the plant.

Issue 21: Because Bartram's ixia is difficult to find unless it is flowering, and is inconspicuous most of the time, the presence of this species is probably undetected in environmental reviews of lands in this area. It is likely that Bartram's ixia is declining faster than we can estimate given the changes in the landscape within the range of this species.

Service response: Data provided by several major landowners, as well as data that may be obtained through a monitoring program may prove useful in the future for evaluating the status of this plant and the need for conservation measures for developments.

Summary of Factors Affecting the Species

The Endangered Species Act and implementing regulations found at 50 CFR 424.17(3) provide the basis for determining a species to be endangered or threatened and for withdrawing a proposed rule when the proposal has not been found to be supported by available evidence. The five factors described in section 4(a)(1) of the Endangered Species Act, as they apply to the withdrawal of the proposed listing of *Salpingostylis coelestina*, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Bartram's ixia is restricted to a limited part of northeastern Florida. In the past 30 years, a majority of the flatwoods in Baker, Bradford, Clay, Putnam, and St. Johns Counties have been converted to pine plantations, with densely planted slash pine. The relative ease of finding large numbers of flowering Bartram's ixia in clearcut and/or freshly replanted pine plantations shows that the plant persists in large numbers under the first crop of pines and can survive site preparation, including chopping and bedding, in large numbers. If Bartram's ixia reproduces abundantly by seed in clearcut/replanting sites (which appears likely, based on casual observation), and if the ixia plants persist to flower either after fire or after the next tree cutting, the ixia may remain relatively secure in such habitats. Threats to the plant from continued timber management might become evident in another 15 to 30 years as the second-crop plantations are harvested.

Some sites that once had populations of Bartram's ixia have been converted to pastures, where the plants may persist, depending on management, or to miscellaneous land uses. Near Starke, a junkyard displaced a well known ixia site (Wunderlin et al. 1980).

Growth of the Jacksonville metropolitan area threatens Bartram's ixia. The plant occurs in the Mandarin section of Jacksonville (Duval County), where it was reported in 1960 and confirmed in 1988 and 1989, but Mandarin is now almost entirely a residential area. In northwestern St. Johns County south of Jacksonville, Bartram's ixia is abundant along roads, in power line rights-of-way, and in pinelands, but in this area, four proposed residential/mixed use developments were large enough to require approval as Florida Developments of Regional Impact (DRIs). These proposals covered much of the known ixia habitat in St. Johns County (allowance must be made for the fact that DRI areas have been searched for the ixia, and some other areas have not). These projects were proposed to house as many as 143,000 people within 20 years (Florida Times-Union, Jacksonville, August 21, 1988; the Service's Jacksonville Field Office reviewed applications for these projects). After the proposal to list this species was published, applications for two developments were dropped, at least temporarily, and the builder of an approved DRI experienced financial difficulties.

The ixia is locally abundant, and is probably widespread, in southern Clay and northern Putnam Counties. Clay County's human population is estimated to have increased from 72,000 in 1984 to 102,800 in 1990 (Moire 1988, Willson 1990. Estimates are by University of Florida Bureau of Economic and Business Research). After the comment period for the ixia proposal had closed, Union Camp Corporation announced plans to develop its nearly 90 square miles of land in Clay and Putnam Counties over a 50-year period (Gainesville Sun, July 18; Florida Times-Union, July 25, July 27, 1990). A proposed Jacksonville outer beltway through St. Johns and Clay Counties may encourage real estate development. The status of Bartram's ixia on Camp Blanding is not known at the present time. Prospective changes in the Camp's forestry practices to favor red-cockaded woodpeckers may also have the effect of conserving the

native flora, perhaps including Bartram's ixia. The State of Florida may purchase habitat occupied by Bartram's ixia under its Conservation and Recreation Lands Program.

In Baker and adjoining Union Counties, Peacock and Peacock (1988) found abundant ixia in clearcuts on Clet Harvey Road, and the landowner found similar populations two miles south in 1990. Bartram's ixia is relatively secure in these counties if these areas remain commercial forest land.

In Bradford County, Bartram's ixia may similarly be secure in commercial forest land north of Starke and east of Hampton.

Prescribed burning of pinelands stimulates flowering of Bartram's ixia and is almost certainly desirable, if not essential for the well-being of this species. The 1990 session of the Florida legislature passed legislation intended to protect from liability suits landowners who practice prescribed burning in accordance with practices approved by the Florida Division of Forestry.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable. The ixia may be of limited interest as a cultivated plant, and is readily grown under the proper conditions in containers (E. Geiger, in litt. 1989) or naturalized in a bog garden (R. McCartney, Woodlanders, Inc., Alken, SC, in litt. 1989).

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* Bartram's ixia is listed as endangered (as *Sphenostigma coelestinum*) by the Preservation of Native Flora of Florida Act (Section 581.185–187, Florida Statutes), which regulates taking, transport, and sale of plants but does not provide habitat protection. Florida's regional planning councils can require protection of state-listed plants in Developments of Regional Impact, and counties are encouraged to provide for conservation of such plants in their state-mandated comprehensive plans. Listing under the Endangered Species Act would have offered additional protection through Sections 7 and 9, and through recovery planning, although Section 7 consultations for plants are rare. Opposition to listing by the forest industry, if accompanied by similar opposition to recovery measures, could render recovery planning nearly meaningless unless it were accompanied by government land acquisition.

E. *Other natural or manmade factors affecting its continued existence.* A July 27, 1990, news story in the *Florida Times-Union* (Jacksonville) noted that changes in the capital gains provisions of the Federal tax laws in 1986 made timber ownership less attractive, encouraging conversion of forest land to real estate development. Robert Olszewski (Florida Forestry Association, pers. comm. 1990) subsequently confirmed that this is a genuine concern. This possible economic incentive for ixia habitat destruction will be considered in any future decisions with respect to listing of this species.

The Service carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by Bartram's ixia in determining to withdraw this proposed rule. The withdrawal is based on the ixia's likelihood of remaining abundant in commercial forest land, combined with a good likelihood of State acquisition of some habitat for this plant, and the possibility that the Florida Department of Community Affairs will require effective conservation of this plant (as a state-listed species) as a condition of approving development projects or county comprehensive plans.

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Author

The primary author of this notice is David Martin (See **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: October 24, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-26557 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 55, No. 218
Friday, November 9, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Turner Lake Sockeye Salmon Enhancement Project, Tongass National Forest; Environmental Impact Statement

In the matter of Turner Lake Sockeye Salmon Enhancement Project, Tongass National Forest, Chatham Area, Juneau Ranger District, Juneau, AK, environmental impact statement cancellation notice.

The Alaska Department of Fish and Game has decided not to proceed with the enhancement proposal to stock Turner Lake with sockeye salmon fry. This decision was based upon the department's disease policy that seeks to control the potential introduction of pathogens into systems where those pathogens do not occur.

The Notice of Intent, published in the **Federal Register** of October 16, 1989, is hereby rescinded (54 FR 42314–03).

For further information, contact: Dennis J. Rogers, Environmental Coordinator, Chatham Area, Tongass National Forest, 204 Siginaka Way, Sitka, Alaska 99835; telephone 907–747–6671.

Dated: November 1, 1990.

Gary A. Morrison,

Forest Supervisor.

[FR Doc. 90–26533 Filed 11–8–90; 8:45 am]

BILLING CODE 3410-11-M

The Ouachita National Forest, Le Flore County, Oklahoma, Multiple Use Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of The Ouachita National Forest, Le Flore County, Oklahoma, Multiple Use Advisory Council. The meeting will be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATES: November 26, 1990, 7 p.m.

ADDRESSES: The meeting location is the Kerr Conference Center, located about 3 miles south of Poteau, Oklahoma, just off Highway 271. Send written statements to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902.

FOR FURTHER INFORMATION CONTACT: Gary Pierson, (501)–321–5281.

SUPPLEMENTARY INFORMATION: The Ouachita National Forest, Le Flore County, Oklahoma, Multiple Use Advisory Council was created by the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv–13). The Council, comprised of 20 members, appointed by the Secretary of Agriculture September 25, 1989, will meet periodically. The purpose of this Council is advisory in nature. The Council shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in Le Flore County. The Council is composed of representatives from the local area in which the Ouachita National Forest is located, equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

Mike Curran, Supervisor of the Ouachita National Forest will chair the meeting. Representatives of the Forest Service will attend from the Department of Agriculture including the designated officer of the Federal Government. The agenda for this meeting will include: The new organization of the two Ranger Districts involved in the NRA., future field trip, "New Perspectives", status of FY 91 funding and construction contracts, and a discussion of suitable acres.

Dated: November 2, 1990.

Raleigh Meadows,

Acting Forest Supervisor.

[FR Doc. 90–26618 Filed 11–8–90; 8:45 am]

BILLING CODE 3410-11-M

Office of International Cooperation and Development

Cornell University; Grant and Cooperative Agreement Awards

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent.

ACTIVITY: OICD intends to enter into agreement with Cornell University to provide partial funding support for collaborative international research on Soil/Water/Environmental Problems Resulting from Use of Fertilizers and Pesticides.

Authority: Section 1458 of the National Agriculture Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3191), and the Food Security Act of 1985 (Publ L. 99–198).

OICD announces the availability of funds in fiscal year 1991 (FY1991) to enter into an agreement with Cornell University to collaborate on international research on Soil/Water/Environmental problems resulting from Use of Fertilizers and Pesticides. Funds will be made available to the University's Department of Soil, Crop and Atmospheric Sciences to conduct collaborative research with the Egypt Ministry of Agriculture's Soil and Water Research Institute. Assistance will be provided only to the University, which is contributing resources and experience to conduct the research. Funds provided by OICD will be used to supplement costs for supplies, computer time, a research associate, and travel.

Based on the above, this is not a formal request for application. An estimated $74,800 will be available in FY1991 to support this seminar. It is anticipated that a total of $224,400 will be provided for this effort over a three-year period, subject to the availability of federally appropriated funds in future fiscal years.

Information on proposed Agreement #58–319R–1–013 may be obtained from: USDA/OICD/Admin Services, 430 McGregor Bldg, Washington, DC 20250–4300.

Dated: November 6, 1990.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 90–26590 Filed 11–8–90; 8:45 am]

BILLING CODE 3410-DP-M

Nitrogen Fixing Tree Association, Hawaii; Grant and Cooperative Agreement Awards

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent.

ACTIVITY: OICD intends to enter into an agreement with the Nitrogen Fixing Tree Association, Hawaii, to convene a seminar on Economic Analyses of Agroforestry Systems.

Authority: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99-198).

OICD announces the availability of funds in fiscal year 1991 (FY1991) to hold a seminar on Economic Analyses of Agroforestry Systems. This activity will be sponsored by A.I.D.'s Office of Forestry, Environment and Natural Resources through its Forestry Support Program which is managed jointly by USDA's Forest Service and OICD.

The seminar would achieve the following goals: (1) Encourage the adoption of a standardized methodology for analyzing financial and economic returns of farm forestry and agroforestry interventions; (2) promote collaboration and sharing of information between A.I.D., other donors and PVOs, and economists/investigators; and (3) encapsulate and disseminate the existing body of knowledge on financial and economic analysis of farm forestry and agroforestry systems. Workshop output would include a report containing case studies; recommendations for a standardized methodology; and recommendations for meeting information needs of A.I.D., other donors and extension projects.

Based on the above, this is not a formal request for application. An estimated $40,200 will be available in FY1991 to support this seminar.

Information on proposed Agreement #58-319R-1-012 may be obtained from: USDA/OICD/Admin Services, 430 McGregor Bldg, Washington DC 20250-4300.

Dated: November 6, 1990.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 90-26591 Filed 11-8-90; 8:45 am]

BILLING CODE 3410-DP-M

Rural Electrification Administration

Alabama Electric Cooperative, Inc.; South Mississippi Electric Power Association

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of intent to hold scoping meetings and prepare an environmental assessment and/or environmental impact statement.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR parts 1500-1508), and REA Environmental Policies and Procedures (7 CFR part 1794) may prepare a Draft Environmental Impact Statement (DEIS) and subsequently a Final Environmental Impact Statement (FEIS) for its Federal action related to a proposal by Alabama Electric Cooperative, Inc., of Andalusia, Alabama, and South Mississippi Electric Power Association, of Hattiesburg, Mississippi, to construct a 230 kV transmission line project. REA may consider providing financing assistance, construction approval, and/or approval of contractual agreements between Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association that would result in construction of the project. Notice is also given of a public scoping meeting to be held in conjunction with the review of the possible environmental consequences and the determination of potentially significant environmental issues associated with the REA Federal action related to the proposed project.

FOR INFORMATION CONTACT: The primary point of contact for this project is Mr. Alex M. Cockey, Jr., Director, Southeast Area-Electric, Rural Electrification Administration, 14th and Independence Avenue, SW., South Agriculture Building, room number 0270, Washington, DC 20250-1500, telephone number (202) 382-8436. For information on specific aspects of Alabama Electric Cooperative, Inc., proposal contact Mr. Mike Noel, Alabama Electric Cooperative, Inc., Highway 29 North, Andalusia, Alabama 36420, telephone number (205) 222-2571, or South Mississippi Electric Power Association's proposal contact Mr. Clifford A. Webb, South Mississippi Electric Power Association, 6401 Highway 49 North, Hattiesburg, Mississippi 39404, telephone number (601) 268-2083.

SUPPLEMENTARY INFORMATION: Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association tentatively propose to construct approximately 52 miles of 230 kV transmission line. The line would begin at a new switching station to be constructed in Washington County, Alabama, south of McIntosh and traverse in a southwesterly direction to an existing substation in George County, Mississippi, located just south of Benndale. Alabama Electric Cooperative, Inc., will construct the Alabama portion of the project and South Mississippi Electric Power Association will construct the Mississippi portion.

Alternatives to be considered by REA, Alabama Electric Cooperative and South Mississippi Electric Power Association include: (a) No action, (b) upgrading the existing 230 kV Chatom, Alabama, to Waynesboro, Mississippi, intertie between Alabama Electric Cooperative and South Mississippi Electric Power Association, (c) alternate origination points, (d) alternate routes and (e) alternate voltage levels.

A public scoping meeting related to REA's environmental review of the project will be held at 7 p.m. at the headquarters of Singing River Electric Power Association, Highway 63 South, Lucedale, Mississippi 39452 on Tuesday, December 11, 1990.

Comments regarding the proposed project may be submitted orally or in writing at the scoping meeting or in writing within 30 days after the December 11th meeting to REA at the address provided in this notice.

Government agencies, other organizations, and the public are invited to participate in the planning and analysis of the proposed project. Issues to be discussed at the public scoping meeting may include, but are not limited to, determination of the project scope, the nature and extent of reasonable alternatives, identification of environmental issues and the scope of those issues, and other reviews or studies that REA or other Federal, States of Alabama and Mississippi, or local agencies may conduct.

To be presented at the meeting will be a macro-corridor study and an alternatives analysis prepared by Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association which were reviewed and accepted by REA as adequate scoping documents. The macro-corridor study and alternatives analysis are available for public review at REA or Alabama Electric Cooperative, Inc., or at South Mississippi Electric Power Association

at the addresses provided herein. They can also be reviewed at the following libraries:

Lucedale Public Library, 104 North Summer, Lucedale, Mississippi 39452

McIntosh Public Library, River Road, McIntosh, Alabama 36553

Citronelle Public Library, 201 State Street, Citronelle, Alabama 36522.

From information provided in the macro-corridor study the alternatives analysis, input from local, States of Alabama and Mississippi and Federal agencies and the public, Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association will prepare an Environmental Analysis to be submitted to REA for review. Upon review of the Environmental Analysis and other input, REA at this point may decide to directly begin preparation of a DEIS. If significant effects are not evident based on a review of the Environmental Analysis and other relevant information, REA will prepare an Environmental Assessment to determine if the preparation of an Environmental Impact Statement (EIS) is warranted.

Should REA determine that the preparation of an EIS is not warranted, it will prepare a Finding of No Significant Impact (FONSI). The FONSI will be made available for public review and comment for 30 days. REA will not take its final action related to the project prior to the expiration of the 30-day period.

Any final action to REA related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal environmental laws and regulations and completion of environmental procedures as prescribed by CEQ and REA environmental policies and procedures as applicable.

Dated: November 5, 1990.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc. 90-26562 Filed 11-8-90; 8:45 am]

BILLING CODE 3410-15-M

ARMS CONTROL AND DISARMAMENT AGENCY

Announcement of the William C. Foster Fellows Visiting Scholars Program for the 1991-92 School Year

The U.S. Arms Control and Disarmament Agency (ACDA) will conduct a competition for selection of visiting scholars to participate in ACDA's activities during the 1991-92 academic year.

Section 28 of the Arms Control and Disarmament Act (22 U.S.C. 2568) provides that "A program for visiting scholars in the field of arms control and disarmament shall be established by the Director of the U.S. Arms Control and Disarmament Agency in order to obtain the services of scholars from the facilities of recognized institutions for higher learing."

The law states "That the purpose of the program will be to give specialists in the physical sciences and other disciplines revelvant to the Agency's activities an opportunity for active participation in the arms control and disarmament activities of the Agency and to gain for the Agency the prespective and expertise such person can offer. . . . Fellows shall be chosen by a board consisting of the Director of the Agency, who shall be the chairperson, and all former Directors of the Agency." In honor of the first Director of ACDA, William C. Foster, who served from the inception of ACDA in 1961 to 1969 and died on October 15, 1984, scholars are known as William C. Foster Fellows.

ACDA began this program by competitively selecting six visiting scholars for the 1984-85 academic year. The competition has continued each subsequent academic year until the present. One-year assignments will begin at a mutually agreeable time between July 1991 and mid-September 1992.

Positions are available in the Bureau of Multilateral Affairs (MA), the Bureau of Verification and Implementation (VI), the Bureau of Strategic Nuclear Affairs (SNA), the Bureau of Nonproliferation Policy (NP) and the Office of the Chief Science Advisor (OCAS). The attached "Description of Visiting Scholar Assignments to ACDA" describes the positions in detail. Evaluation of applicants for appointments to these positions will emphasize the scholars' potential for providing expertise or performing services needed by ACDA, rather than on the scholar's previously displayed interest in arms control. While pursuit of the scholars' own line of research may sometimes be possible, support of such activity is not the purpose of the program.

Visiting scholars will be detailed to ACDA by their universities; the universities will be compensated for their salaries and benefits in accordance with the intergovernmental Personnel Act and within Agency limitations. In addition to pay based on their regular salary rates, the visting scholars will receive travel to and from Washington, D.C. area for their one-year assignment and either per diem allowance during the one-year assignment or relocation costs.

Visiting scholars must be citizens of the United States and on the faculty of recognized institution of higher learning. Prior to appointment they will be subject to a full-field background security investigation for a top secret security clearance, as required by Section 45 of the Arms Control and Disarmament Act. Visiting scholars will also be subject to applicable Federal conflict of interest laws and standards of conduct.

Selections will be made without regard to race, color, religion, sex, national origin, age, or physical handicap which does not interfere with performance of duties, and all qualified persons are encouraged to apply. Applications should be in the form of a letter indicating the position(s) in which the applicant is interested and the prespective and expertise which the applicant offers. The letter should be accomplished by a curriculum vitae, and any other materials such as letters of reference and samples of published articles which the applicants believe should be considered in the selection process. (If published materials are submitted please provide twelve copies, if possible.)

Applications, and any requests for addition information, should be sent to: Visiting Scholars Program, Attention: Operations Analysis, room 5726, U.S. Arms Control and Disarmament Agency, Washington, DC 20451. The application deadline for assignments for the 1991-1992 academic year is January 31, 1991, subject to extension at ACDA's option. Announcement of selection, subject to security clearance procedures, is expected in early spring 1991.

Dated: October 11, 1990.

Alfred Lieberman,

Chief, Operations Analysis.

Description of Visiting Scholar Assignments to ACDA

Bureau of Multilateral Affairs

Description of Bureau

The Bureau of Multilateral Affairs (MA) has primary responsibility within ACDA for arms control issues dealt with in multilateral forums. On these issues the Bureau is responsible for the development of policy, strategy, and tactics. The Bureau is responsible for consultation and coordination with foreign governments and preparing the Director and Deputy Director for their meetings with foreign country representatives on multilateral arms control. It also provides organizational support, delegational staffing, and Washington backstopping for multilateral arms control negotiations.

In the accomplishment of this mission, MA performs the following tasks:

—leads the preparation of guidance with ACDA for the negotiations on Conventional Forces in Europe and on Confidence-and-Security-Building Measures,

—leads the preparation of guidance for, and backstopping of, delegations to the Conference on Disarmament (CD), multilateral and bilateral chemical weapons negotiations, the United Nations Disarmament Commission, and the First Committee of the United Nationa General Assembly,

—provides general support to the US Representative to the CD who heads these delegations,

—develops policy within ACDA on the President's Open Skies initiative.

MA has three divisions: European Security Negotiations (ESN), International Security Affairs (ISA), and Science and Technology Policy (STP).

Possible Assignments

A visiting scholar might be assigned to assist in the negotiations leading to a Chemical Weapons treaty or a follow-on treaty to the Conventional Armed Forces in Europe treaty.

Qualifications

Useful background for a candidate would include knowledge of European political and military issues and familiarity with NATO defense doctrine. Previous experience and research on arms control and national security issued would be valuable.

Bureau of Verification and Implementation

Description of Bureau

VI provides verification support for all arms control negotiations including those on strategic and theater nuclear arms limitations, limitations on conventional forces in Europe, limitations on the tests of nuclear weapons, limitations on the deployment of strategic defenses in space, and limitations on the production and stockpiling of chemical and biological weapons.

VI participates in compliance assessment with regard to the Intermediate-Range Nuclear Forces Treaty (INF), the unratified Threshold Test Ban Treaty (TTBT), the Antibalistic Missile Treaty (ABM), the Biological Weapons Convention (BWC), the Geneva Protocol on Chemical Weapons, and the Limited Test Ban Treaty. VI also provides technical support on compliance to the Standing Consultive Commission, a U.S./Soviet forum for discussing suspected treaty violations.

Possible Assignments

VI developes verification requirements for arms control agreements being negotiated; reviews compliance with existing arms control agreements; and evaluates the potential of various collection technologies for monitoring compliance with provisions of arms control agreements. A Visiting Scholar would be expected to participate in one or more of these activities by performing studies, or drafting policy papers. In some cases, the Visiting Scholar would represent ACDA on interagency working groups and would be called upon to exercise a relatively high degree of individual judgment.

Subject areas where a Visiting Scholar might contribute include: verification of a treaty on chemical weapons; verification of limits on space-based weapons and weapons which can attack space-based military assets; compliance with existing—and verification of proposed—treaty limitations on ballistic missiles and nuclear testing; or analysis of Soviet views on stability and their impact on verification.

Qualifications

Because of the complex technical and analytical content in these areas, VI seeks a physical scientist, or expert in Soviet strategy and doctrine with a broad background. Specific useful background for a candidate would include: knowledge of basic physics, chemistry, aerospace systems, or Soviet strategic studies. The Visiting Scholar should have facility in analytical writing and general communication and a proven ability to innovate. Specific background in the areas of VI responsibility would be of value, but is not a requirement.

Bureau of Strategic Nuclear Affairs

Description of Bureau

The Bureau of Strategic Nuclear Affairs (SNA) has responsibility for support of the Director of ACDA on arms control matters concerning limitations on U.S. and Soviet strategic and theater offensive forces and defensive and space forces. This includes providing technical and policy guidance in these areas and participating in the policy deliberation of Interagency Groups responsible for these areas. SNA also has responsibility for ACDA's participation in the Nuclear and Space Talks (NST) in Geneva, other bilateral U.S.-USSR nuclear arms control negotiations, and other defense related matters including ACDA participation in US decisions regarding research on ballistic missile defenses. NST includes strategic and theater nuclear arms control and defense and space issues. Other bilateral discussions include meetings of the Standing Consultative Commission (SCC) and preparation for periodic Anti-Ballistic Missile (ABM) Treaty reviews as well as meetings of the Special Verification Commission (SVC) on implementation of and compliance with the Intermediate-Range Nuclear Forces Treaty (INF). SNA also has interagency responsibility for backstopping of the NST negotiations, the SVC, the SCC, and ABM Treaty reviews. SNA has three divisions: Strategic Affairs, Theater Affairs, and Defense and Space.

Possible Assignments

A Visiting Scholar assigned to SNA would assist in policy formation in one or more of the areas cited above. The visiting scholar's responsibilities would include drafting position papers, background studies, and policy analyses, both for use within ACDA and for coordination with other agencies such as the Central Intelligence Agency, the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Department of State, and Interagency groups. In some cases, the individual would represent ACDA on interagency working groups. The visiting scholar would be called upon to exercise a relatively high degree of individual judgment in developing policy recommendations. There may be an opportunity to volunteer to serve on the staff of U.S. delegations to arms control negotiations. The most likely area of concentration for the visiting scholar would be strategic arms reduction policy, but this could vary according to the scholar's background and the needs of SNA.

Qualifications

Because of the highly technical content in these areas, SNA seeks a physical scientists with a broad theoretical or applied background. Useful background for a candidate would include: knowledge of basic physics, facility in concise writing, general communication skills, and proven ability to innovate. Background in areas of SNA responsibility would be of value but is not a requirement.

Bureau of Nonproliferation Policies

Description of Bureau

The Bureau of Nonproliferation Policies (NP) has responsibility for proliferation issues, including nuclear and chemical weapons, missiles, and conventional armaments. Functions include the review of nuclear exports,

support of the international safeguards system, and the promotion of the Nuclear Non-Proliferation Treaty and the Treaty of Tlatelolco. NP also assesses the arms control implications of proposed arms transfers and technology transfers, prepares arms control impact statements on U.S. programs and prepares arms control policy assessments and proposals. The Bureau participates in missile and chemical weapon nonproliferation policy development and associated multilateral arrangements such as Missile Technology Control Regime and the Australia Group. In addition, NP is responsible for ACDA's economic analysis work and coordinates publication of "World Military Expenditures and Arms Transfers."

Possible Assignments

A visiting scholar assigned to NP would work on selected topics within that Bureau's responsibility, with emphasis on issues raised by the interrelationships among U.S. policies on nuclear nonproliferation, the transfer of conventional arms, and the export of missile technology. The visiting scholar's responsibilities would include the preparation of analyses of these issues and recommendations on their implications for arms control.

The position would involve close coordination with officials in the Department of State and Defense and other concerned agencies. In carrying out assigned duties, the individual would need to exercise initiative and function effectively with minimum direct guidance and supervision.

Qualifications

Desirable attributes for a candidate from the physical sciences would include expertise in nuclear, chemical or military technologies, industrial development, and science policy. Candidates from other disciplines relevant to NP's activities ideally should have some understanding of the role of arms control in national security planning, familiarity with weapons characteristics and capabilities, knowledge of political-military conditions in developing regions. Because of the complex political, technology and military issues involved, a good background in national security studies or international relations is also important.

Office of the Chief Science Advisor

Description of Office

The Office of the Chief Science Advisor (OCSA) provides a focal point for ACDA and for the US Government on science and technology in arms control and on coordination of verification research and development. Its responsibilities include:

—provision of operations analysis, mathematical and statistical support for evaluation of the security implications of treaty options and for negotiation of treaty verification protocols,
—coordination of interagency and international verification research and development efforts,
—performance of liaison with academia, industry and other government agencies on the application of science to arms control problems,
—provision of technical computer support to the Agency,
—coordination of arms control related external research throughout the government and oversight of the Agency's external research program,
—and provision of technical management of projects of a general nature.

Possible Assignments

A visiting scholar in OCSA might be assigned to a liaison post between ACDA and academia or industry; to a post in the Research Group where he would contribute to the performance and management of research; or to the Operations Analysis Group where he would apply operations research methods and other mathematical and statistical techniques to the evaluation of conventional and strategic treaty options or to the comparison of verification protocols. Some of the work in the Operations Analysis Group might require the use of numerous computer applications including large strategic or conventional war-gaming models.

Qualifications

The assignments in OCSA require the backgrounds of physicists, engineers, mathematicians, mathematical statisticians, or operations research analysts. There is no requirement that the scholar have had experience in applying his specialty to arms control problems. While the emphasis at ACDA is on the application of these disciplines, scholars whose specialties were mainly theoretical could make valuable contributions to the work of OCSA.

[FR Doc. 90-26489 Filed 11-8-90; 8:45 am]
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DEPARTMENT OF COMMERCE

DEPARTMENT OF EDUCATION

DEPARTMENT OF JUSTICE

Departments of Commerce and Education Agreement to Delegate Certain Civil Rights Compliance Responsibilities for Educational Institutions

ACTION: Agreement between the Department of Commerce and the Department of Education to delegate certain civil rights compliance responsibilities for educational institutions.

A. Purpose

Section 1-207 of Executive Order 12250 authorizes the Attorney General to initiate cooperative programs among Federal agencies responsible for enforcing title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, as amended, and section 504 of the Rehabilitation Act of 1973, as amended, and similar provisions of Federal law prohibiting discrimination on the basis of race, color, national origin, sex, handicap, or religion in programs or activities receiving Federal financial assistance.

This agreement will promote consistent and coordinated enforcement of covered nondiscrimination provisions as required in the Coordination of Enforcement of Non-discrimination in Federally Assisted Programs (28 CFR 42.401-.415), increase the efficiency of compliance activity, and reduce burdens on recipients, beneficiaries, and Federal agencies by consolidating compliance responsibilities, by eliminating duplication in civil rights reviews and data requirements, and by promoting consistent application of enforcement standards.

B. Delegation

By this agreement the Department of Commerce designates the Department of Education as the agency responsible for specific civil rights compliance duties, as enumerated below, with respect to Educational Institutions. Responsibility for the following covered nondiscrimination provisions are delegated:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000-4); and

2. Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794).

The agreement specifies the duties to be performed by each agency. It does not alter the requirements of the joint Department of Justice/Equal

Employment Opportunity Commission regulation concerning procedures for handling complaints of employment discrimination filed against recipients of Federal financial assistance. 28 CFR 42.601–42.613, 29 CFR 1691.1–1697.13, 48 FR 3570 (January 25, 1983). Complaints covered by that regulation filed with a delegating agency against a recipient of Federal financial assistance solely alleging employment discrimination based on race, color, national origin, religion, or sex against an individual are to be referred directly to the EEOC by the delegating agency.

C. Duties of the Department of Education

The Department of Commerce assigns the following compliance duties to the Department of Education with respect to Educational Institutions. Specifically, the Department of Education shall:

1. Maintain current files on all activities undertaken pursuant to this agreement and on the compliance status of applicants and recipients with respect to their programs or activities receiving Federal financial assistance resulting from preapproval and postapproval reviews, complaint investigations, and actions to resolve noncompliance. A summary of these activities and the compliance status of applicants and recipients shall be reported at least at the end of every fiscal year to the Department of Commerce.

2. Develop and use information for the routine, periodic monitoring of compliance by Educational Institutions with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

3. Perform, upon request by the Department of Commerce, preapproval reviews for which the following conditions apply:

(a) the delegating agency has reason to believe discrimination may be occurring in a program or activity receiving or applying for Federal financial assistance, and (b) supplemental information or field reviews not readily achievable by the Department of Commerce are necessary to determine compliance.

4. Conduct an effective program of postapproval reviews of recipients with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

5. Receive complaints alleging that recipients subject to this agreement have discriminated in violation of covered nondiscrimination provisions in their programs or activities receiving Federal financial assistance, attempt to obtain information necessary to make complaints complete, and investigate complete complaints.

6. Issue a written letter of findings of compliance or a letter of findings of noncompliance that (a) advises the recipient and, where appropriate, the complainant of the results of the postapproval review or complaint investigation, (b) provides recommendations, where appropriate, for achieving voluntary compliance, and (c) offers the opportunity to engage in negotiations for achieving voluntary compliance. The governor of the state in which the applicant or recipient is located will be given the opportunity to secure compliance by voluntary means if the letter of findings of noncompliance is made pursuant to a statute requiring that the governor be given an opportunity to secure compliance by voluntary means. The Department of Education promptly shall provide a copy of its letter of findings to the Department of Commerce and to the Assistant Attorney General for Civil Rights.

7. Conduct, after a letter of findings of noncompliance, negotiations seeking voluntary compliance with the requirements of covered nondiscrimination provisions.

8. (a) If compliance cannot be voluntarily achieved, and the Department of Education does not fund the applicant or recipient, refer the matter to the Department of Commerce for its own independent action and notify the Assistant Attorney General for Civil Rights of the referral.

(b) If compliance cannot be achieved and both the Department of Education and the Department of Commerce fund the applicant or recipient, initiate formal enforcement action. When the Department of Education initiates formal enforcement action by providing the applicant or recipient with an opportunity for an administrative hearing, provide the Department of Commerce with an opportunity to participate as a party in a joint administrative hearing. When the Department of Education initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the Department of Commerce of the referral.

9. Notify the Department of Commerce and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and any action taken against the applicant or recipient.

D. Duties of the Department of Commerce

The Department of Commerce shall:

1. Issue and provide to the Department of Education copies of all regulations, guidelines, reports, orders, policies, and other documents that are needed for recipients to comply with covered nondiscrimination provisions and for the Department of Education to administer the responsibilities enumerated under this agreement.

2. Provide the Department of Education with information, technical assistance, and training necessary for the Department of Education to perform the duties delegated under this agreement. This information shall include, but is not limited to, a list of recipients receiving Federal financial assistance from the Department of Commerce, the types of assistance provided, compliance information solely in the Department of Commerce's possession or control, and data on program eligibility and/or actual participants in assisted programs or activities.

3. Perform preapproval reviews of applicants for assistance, as required by 28 CFR 42.407(b), where the reviews do not require supplemental information or field reviews not readily achievable by the Department of Commerce. The reviews may require information to be supplied by the Department of Education. If the Department of Commerce requests the Department of Education to undertake an on-site review because it has shown it has reason to believe discrimination is occurring in a program or activity receiving or applying for Federal financial assistance, the Department of Commerce shall supply information necessary for the Department of Education to undertake such a review.

4. Refer all complaints alleging discrimination under covered nondiscrimination provisions filed with the Department of Commerce against the recipient subject to this delegation and determine, if possible, whether the program involved receives Federal financial assistance from the delegating agency.

5. Where the Department of Education has notified the applicant or recipient in writing that compliance cannot be achieved by voluntary means and the Department of Education has referred the matter to the Department of Commerce, make the final compliance determination and;

(a) If the Department of Commerce wishes to initiate formal enforcement action by providing the applicant or recipient with an opportunity for an administrative hearing, notify the Department of Education if the Department of Commerce will either join

as a party in the Department of Education's administrative hearing or will conduct its own administrative hearing.

(b) When the Department of Commerce initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the Department of Education of the referral.

(c) If the Department of Commerce conducts its own hearing, notify the Department of Education and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and any action taken against the applicant or recipient. The Department of Commerce may request the Department of Education to act as counsel in its administrative hearing.

(d) If the Department of Commerce neither initiates steps to deny or terminate Federal financial assistance nor refers the matter to the Department of Justice, notify the Department of Education and the Assistant Attorney General for Civil Rights, in writing, within 15 days after notification from the Department of Education that voluntary compliance cannot be achieved.

E. Redelegation

Duties delegated herein to the Department of Education may be redelegated. The Department of Education shall notify the Department of Commerce of any such redelegation prior to its effective date.

F. Effect on Prior Delegations

This agreement supersedes and replaces the delegation agreement between the Department of Commerce and the Department of Health, Education and Welfare with respect to Educational Institutions published in the **Federal Register** at 32 FR 3109 (February 21, 1967).

G. Approval

This agreement shall be signed by the Assistant Attorney General for Civil Rights. It shall be signed by both parties and become effective December 10, 1990.

H. Termination

This Agreement may be terminated by either agency 60 days after notice to the other agency and to the Assistant Attorney General for Civil Rights.

Dated: June 26, 1990

Thomas J. Collamore,

Assistant Secretary for Administration, Department of Commerce

Dated: September 10, 1990

Lauro F. Cavazos,

Secretary, Department of Education.

Dated: October 16, 1990.

John R. Dunne,

Assistant Attorney General for Civil Rights Division, Department of Justice.

[FR Doc. 90-26527 Filed 11-8-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Final Results

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On May 23, 1990, the Department of Commerce published the preliminary results of its administrative review and intent to revoke in part of the antidumping duty order on color television receivers, except for video monitors, from Taiwan. The review covers eleven manufacturers and/or exporters for the period April 1, 1986 through March 31, 1987 (third review).

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke in part. Based on our analysis of comments received and the correction of certain clerical errors, we have changed the preliminary rates for AOC International Inc. (AOC), Proton (Fulet) Electronic Industrial Co., Ltd. (Proton), Kuang Yuan, Co., Ltd. (Kuang Yuan), Shin-Shirasuna Electric Corporation (Taiwan) (Shin-Shirasuna), and Thomson Consumer Electronics/RCA Taiwan (RCA). We also confirm the revocation in part with respect to Capetronic.

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: Maureen C. McPhillips or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 21210) the preliminary results of its administrative review of, and intent to revoke in part, the antidumping duty order on color television receivers, except for video monitors, from Taiwan (49 FR 18337, April 30, 1984). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act) and 19 CFR 353.22 (1990).

Scope of the Review

Imports covered by the review are shipments of color television receivers, except for video monitors, complete or incomplete, from Taiwan. The order covers all color television receivers (CTVs) regardless of tariff classification. The merchandise was classified under item numbers 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9270, 684.9275, 684.9655, 684.9656, 684.9658, 684.9660, 684.9663, 684.9864, 684.9866, 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under items 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00 of the Harmonized Tariff Schedules. TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers eleven manufacturers and/or exporters of color television receivers, except for video monitors, from Taiwan for the period April 1, 1986 through March 31, 1987.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke in part as provided by §§ 353.22(c) and 353.54 of the Department's regulations. We received comments from the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Technical, Salaried and Machine Workers, AFL-CIO-CLC, the Independent Radionic Workers of America, the Industrial Union Department, AFL-CIO (the petitioners); Zenith Electronics Corp. (Zenith); and nine respondents: AOC, Capetronic, Proton, Hitachi, Kuang Yuan, Philips, RCA, Shin-Shirasuna, and Tatung.

We have corrected any clerical errors noted by the petitioners, Zenith, and respondents, but have not addressed them specifically in this notice.

General Comments

Comment 1: Zenith and the petitioners argue that the commodity tax pass-

through measurement is required by statute and that the Department's assumption of full pass-through is unwarranted. They also maintain that it is unlawful for the Department to adjust foreign market value (FMV) for a difference in circumstances of sale quantified as the full amount of the difference between the tax added to United States Price (USP) and the tax included in the home market price. Zenith argues that the Department's failure to cap the amount of tax added to the USP at the amount of tax added to or included in the home market price, even assuming full pass-through, is unlawful. Citing section 772(d)(1)(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1677a(d)(1)(c)), the petitioners add that the Department should not adjust USP upward for any taxes because the respondents have not demonstrated that any taxes were passed through to customers on home market sales and consequently have not established entitlement to this adjustment. Moreover, the petitioners state that the Department's assertion that it is not bound by decisions of the court with which it does not agree and which it plans to appeal is tantamount to administrative agency nonacquiescence. Zenith and the petitioners cite *Zenith Electronics Corp. v. United States*, 10 CIT 268, 633 F. Supp. 1382 (1986), *appeals dismissed*, nos. 88-1259 and 88-1260 (Fed Cir., 1989); and *Daewoo Electronics Co., et al. v. United States*, 712 F. Supp. 931 (CIT, 1989), in support of their position.

AOC, Proton, and Tatung contend that the statute provides that the commodity tax adjustment should be the amount of the commodity tax that would have been paid if the exported merchandise had been sold in the home market and that this amount should be made as an addition to USP. The Department's use of a methodology that deducts taxes from home market price is unlawful. These respondents cite *Zenith, supra*, in support of their position. They also maintain that it is nonsensical to base the amount of the exempted commodity tax on USP because the adjustment is designed to measure indirect taxes rebated or not collected by reason of the exportation of the merchandise to the United States (19 U.S.C. 1677a(d)(1)(c)). Accordingly, these respondents urge the Department to calculate the amount of the commodity tax using the duty paying values and formulae provided in their responses. This amount should then be added to the USP. Moreover, the circumstance-of-sale adjustment, which these respondents hold is without statutory basis, will no longer be necessary. They concur with the Department's position that the antidumping statute does not require measurement of the incidence of indirect taxes in an economic sense.

Department's Position: We do not agree with the court in *Zenith* but have not had an opportunity to appeal the issues on its merits. Consistent with our long-standing policy, we have not attempted to measure the amount of tax "passed through" to customers in Taiwan. We do not agree that the statutory language limiting the amount of the adjustment to the amount of the commodity tax "added to or included in the price" of televisions sold in Taiwan requires the Department to measure the incidence of the tax in an economic sense.

We agree that the amount of the commodity tax forgiven by reason of the export of televisions to the United States must be added to USP under the statute. The tax base in Taiwan, or duty paying value (DPV), is submitted by each firm and approved by the Taiwan authorities. For CTVs sold from bonded factories, the DPV is the ex-factory price; for CTVs sold from unbonded factories, the DPV consists of production costs, general selling and administrative costs, and profit, *i.e.*, the price to the first unrelated buyer. We also disagree with AOC, Proton, and Tatung that we should base the amount of tax added to USP on home market DPV. Because we are trying to make an "apples-to-apples" comparison, the amount of tax rebated or not collected by reason of exportation should be based on a U.S. tax base that is comparable to the home market tax base. Accordingly, for bonded factories, we used the ex-factory price of the U.S. merchandise; for unbonded factories, we used the price to the first unrelated customer in the United States as the U.S. tax base. We calculated the adjustment by multiplying the U.S. tax base by the home market tax rate and adding the result to USP.

To avoid artificially inflating or deflating margins, we made circumstance-of-sale adjustments equal to the difference between the per unit tax collected in Taiwan and the imputed per unit tax calculated for U.S. merchandise.

Comment 2: Zenith contends that the Department failed to take into account the average age and balance of accounts payable relating to a respondent's home market sales activity, as opposed to product process activity. With respect to discounts, rebates, and differences in circumstances of sale in the home market, Zenith maintains that the true cost to the respondent is not the amount paid out, but rather that amount minus the savings realized by paying that amount some time after the obligation to pay was incurred. AOC, Proton, and Tatung point out that the Department has rejected this argument on numerous occasions, including the final results of the second administrative review of this order.

Department's Position: We disagree with Zenith. In this review, we have followed our practice as stated in the second administrative review of color television receivers from Taiwan (53 FR at 49707, Comment 2). Any savings resulting from the deferred payment of a discount or rebate would have been taken into account by the seller in setting the terms of the discount or rebate. Therefore, it is unnecessary to adjust the "actual cost" to the seller. This is in contrast to credit costs or inventory carrying costs, which are imputed costs, where the seller does not know how long it will take for a customer to pay or how long he will store merchandise before it is sold.

Comment 3: Zenith maintains that the Department should correct its ESP calculations by deducting the amount of antidumping-related legal expenses which respondents paid during the period under review. AOC, Hitachi, Proton, and Tatung maintain that this adjustment would be contrary to the Department's long-standing practice of excluding such legal expenses from antidumping calculations. Furthermore, these respondents note that the Department's position has been upheld by the CIT in *Daewoo, supra*.

Department's Position: We disagree with Zenith. In this review, we have followed our practice as stated in the final results of the second administrative review of this order (53 at FR 49708, Comment 10) and in *Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review* (55 FR 26225, 26227), a position sustained by the court in *Daewoo*. We do not consider legal fees paid in connection with litigation resulting from an earlier antidumping investigation to be an expense related to sales made in the period of review. We view legal fees incurred at the administrative review stage of an antidumping proceeding as meriting similar treatment since they are incurred in defending against an allegation of dumping. As such, they are not expenses incurred in selling merchandise in the United States. Moreover, to deduct antidumping legal fees as selling expenses would effectively discriminate against those

respondents who seek legal counsel in proceedings before the Department.

Comment 4: Zenith states that the Department has incorrectly offset U.S. commissions with indirect selling expenses in the home market. Zenith argues that commissions paid on U.S. sales compensate the recipients for both direct and indirect expenses. Unless a commission is broken up into its direct and indirect components, and the FMV offset is capped at only the level of the indirect expense element, the commissions, effect on FMV will be overstated by the amount of the direct expense portion of the U.S. commission. AOC, Proton, and Tatung contend that the proposed distinction between "direct" and "indirect" commission components is untenable. The Department should continue to offset the full amount of U.S. commissions with home market indirect selling expenses in those situations in which commissions are paid in the United States but not in Taiwan.

Department's Position: In this review, we have followed our practice as stated in the second administrative review of this order (53 FR at 49708, Comment 9). Respondents have demonstrated that commissions paid to unrelated parties bear a direct relationship to the sales under consideration. It is not necessary to examine how the commissionaire spent the money; to the seller it is a direct expense, incurred only because a particular sale was made. We have treated these expenses as direct circumstance-of-sale adjustments pursuant to § 353.56(b)(1) of the regulations and, where appropriate, have deducted indirect selling expenses in the market where there is no commission up to the amount of the commission in the other market.

Comment 5: Zenith argues that the statute instructs the Department to reduce USP by the amount of any charges or expenses associated with shipping the merchandise from the country of exportation to its place of delivery in the United States (19 U.S.C. 1677a(d)(2)(A)). Therefore, the Department should reduce USP by the amount of estimated antidumping duties and any expenses associated with paying such duties. AOC, Hitachi, Proton, and Tatung assert that Zenith's position is contrary to the Department's well-established policy of not adjusting U.S. price for antidumping duty deposits. These respondents cite the second review of this order (53 FR 49708) and *Color Television Receivers from the Republic of Korea* (55 FR 26227) in support of their position.

Department's Position: In this review, we have followed our position as stated in the final results of the second review (53 FR at 49708, Comment 11) of this order. Like legal fees, we do not consider antidumping duties to be expenses related to sales under consideration. Given the tenuous nature of these estimated rates and the possibility that they could be zero, we do not consider them to be expenses within the meaning of 19 U.S.C. 1677(d)(2)(A) for purposes of determining USP.

Comment 6: Zenith maintains that the Department understates the antidumping cash deposit on entered merchandise by basing the weighted-average margins on statutory USP and not on the entered value of the merchandise. Upon entry of the merchandise into the United States, the Custom Service applies the weighted-average dumping margin to the declared entered value as best information available. Zenith argues that because this entered value is often less than the statutory USP, the absolute amount of dumping duty is less than the dollar amount that would be the result if the margin were based on the statutory USP. Therefore, Zenith urges the Department to calculate the deposit rate as a percentage of the entered value and not as a percentage of the statutory USP. AOC, Hitachi, Proton, and Tatung disagree with Zenith, noting that the Department has rejected the same argument in previous decisions in television cases, and the Department's position was upheld by the court in the *Daewoo* case, 712 F. Supp. at 956–57. These respondents also point out that if it is determined in the course of an administrative review that the actual amount of antidumping duties assessed on an entry exceeds the cash deposit, the Department will collect the difference with interest. Therefore, the Department should continue to base duty deposit rates on statutory USP.

Department's Position: In this review, we have followed our practice as stated in the final results of the third review of this order (53 FR at 8940, Comment 7). Section 736 of the Tariff Act requires the Department to instruct U.S. Customs to "assess an antidumping duty equal to the amount by which the FMV of the merchandise exceeds the United States price of the merchandise * * *" (19 U.S.C. 1673e(a)(1)). At the time that the merchandise is entered, USP has yet to be determined. Since cash deposits of estimated dumping duties are required at that time, we instruct Customs to require cash deposits based on a percentage of the only value available, the entered value. If, after an administrative review, the amount of the antidumping duties deposited should be less than the actual amount to be assessed, Customs will collect the difference with interest.

Comment 7: AOC, Proton, and Tatung maintain that the Department's present methodology of adjusting for differences in circumstance of sale on respondents' ESP transactions by deducting expenses separately from the prices in the market in which they were incurred directly conflicts with the antidumping statute, which authorizes circumstance-of-sale adjustments only with respect to foreign market value (19 U.S.C. 1677b(a)(4)). Rather, the Department should perform its circumstance-of-sale adjustments in accordance with the methodology mandated by the CIT in *Timken Co.* v. *United States*, 673 F. Supp. 495, 509–512 (CIT, 1987), which ruled that circumstance-of-sale adjustments can only be made as additions to, or subtractions from, FMV.

Department's Position: We disagree with these respondents and have appealed the court's decision in *Timken*. Until the *Timken* decision is decided on appeal we intend to follow our standard methodology as prescribed by the Tariff Act, which states that ESP shall be reduced by "expenses generally incurred" in selling merchandise in the United States (19 U.S.C. 1677a(e)(2)).

Company-Specific Comments

AOC

Comment 8: AOC, the petitioners, and Zenith submitted comments concerning various mathematical, computer programming, and clerical errors in the Department's analysis of the preliminary results of AOC's response.

Department's Position: We have made the following corrections to the appropriate programs in our final results calculations for AOC: Incorrect difference-in-merchandise adjustments in the purchase price program were corrected; the double-counting of U.S. direct and indirect selling expenses and the omission of third-country indirect selling expenses were corrected; and the difference-in-merchandise adjustment was changed to reflect the correct amount subtracted from FMV.

Comment 9: Zenith contends that the Department not only failed to calculate AOC's commodity tax adjustment on the basis of the appropriate U.S. tax base, but compounded the error by "imputing" a tax base which includes the customs import duty paid in Taiwan. Zenith suggests that the Department derive the taxable value by adding the rebated duties to the actual ex-factory price prior to applying the commodity tax rate.

Department's Position: We disagree with Zenith. In order to ensure that FMV and USP are comparable, it is necessary to determine at what point in the manufacturing/marketing chain the tax authority in Taiwan would have imposed the taxes on the exported merchandise, were it to impose the taxes in question at a point comparable to the point at which the home market tax is assessed. Accordingly, we have calculated the U.S. tax base for each type of sale, *i.e.,* whether from a bonded or unbonded warehouse, by applying the same formulae used to calculate the home market commodity tax base (see Comment 1). The tax rate in Taiwan was then applied to the U.S. tax base to determine the amount of tax that should be added to USP pursuant to 19 U.S.C. 1677a(d)(1)(c).

Comment 10: Zenith notes that the Department added an amount to USP for commodity taxes after October 1, 1986, when in fact, AOC did not pay any home market commodity taxes after this date. In addition, for a few models, AOC did not inform the tax authorities until December 1986 of shipments made prior to October 23, 1986, and paid the lower import duty effective on that date. The petitioners request that for those sales affected by this change, the Department should use the December tax rate to calculate the uncollected U.S. commodity tax. AOC rejects both the Department's and the petitioner's commodity tax methodologies. However, AOC points out that if the Department does remove the commodity tax adjustments from USP for sales made after October 1, 1986, it should also remove the corresponding circumstance-of-sale adjustments to home market price for differences in the commodity tax.

Department's Position: We agree with Zenith. We removed the commodity tax adjustment on U.S. sales made after October 1, 1986 and have made the corresponding correction in the circumstance-of-sale adjustment. As the petitioners suggested, we used the duty rate in effect when AOC actually paid the Taiwan authorities.

Comment 11: The petitioners maintain that all of AOC's sales should be considered ESP transactions. They state that AOC's response indicates that merchandise classified under purchase price transactions was not only stored in AOC-USA's warehouse, but was "resold" after entry into the U.S. warehouse. AOC maintains that the CTVs it classifies as purchase price "were *directly shipped* to large retail buying groups or wholesalers/distributors * * *" and *"did not enter AOC-USA's warehouse."* Moreover, the term "resale" refers to AOC-USA's issuance of an invoice to the U.S. customers on behalf of AOC-Taipei, with AOC-USA serving only as a document handler or agent with respect to sales made by AOC-Taipei. AOC urges the Department to reject the petitioners' argument.

Department's Position: We disagree with the petitioners. We have continued to treat these transactions as purchase price sales because AOC-USA serves merely as the facilitator of the transaction and importer of record for the merchandise. The merchandise was shipped directly from AOC-Taipei to the unrelated customer and did not enter the inventory of AOC-USA. Direct shipment from AOC-Taipei to the unrelated buyer was the customary commercial channel for these sales. When these conditions are present, it is the Department's policy to use purchase price as the basis for USP (see, Color Television Receivers, Except for Video Monitors, from Taiwan, 53 FR at 49711, Comment 41).

Comment 12: The petitioners state that the Department erred in using AOC's reported home market interest rate to calculate the company's credit expenses on its U.S. sales. In its final analysis, therefore, the Department should calculate AOC's U.S. credit expenses based on the short-term debt recorded in AOC-Taipei's financial statements. AOC asserts that the petitioners have misinterpreted the financial statements. The U.S. dollar-denominated loans, listed in the AOC-Taipei financial statement, reflect loans taken out by AOC-Taipei to finance the importation of material to Taiwan, not the exportation of CTVs to the United States.

Department's Position: AOC-USA borrowed from home market banks in order to finance its U.S. sales. It is the Department's practice to use the home market interest rate in these instances. Therefore, we agree with AOC and have continued to use the same rate in the final determination.

Comment 13: The petitioners claim that the Department understated the average collection period on AOC's purchase price sales by using the amount reported in the original response instead of the revised amount submitted in the supplemental response. Citing AOC's response, the petitioners state that the former figure only accounts for the average time period between exportation and entry into the U.S. warehouse. The Department should also include the period from the date the unrelated customer received the merchandise to the date of payment to AOC-USA. AOC counters that the two figures measure separate and distinct segments of time. The first period represents the average accounts receivable turnover of AOC-USA used to calculate the period from the date the unrelated customer received the merchandise to the date of payment to AOC-USA. The second period represents the average inventory-in-transit period. AOC maintains that it is irrelevant whether the payment is made to AOC-USA or to AOC-Taipei as the former is a wholly-owned subsidiary of the latter. The petitioners assert that since AOC-USA was responsible for billing AOC's purchase price sales, the expense incurred from the point of shipment in Taiwan to the time AOC-Taipei received payment must be included in the credit period as a direct expense. AOC maintains that the pre-delivery period has nothing to do with credit to the customer. Inclusion of this period in the direct credit calculation is inconsistent with the Department's established practice of basing the starting point of the direct credit period on the date of posting to the accounts receivable. AOC cites *Oil Country Tubular Goods from Israel* (51 FR 30259, 30260, August 25, 1986), *Color Television Receivers from Korea* (49 FR 50420, December 28, 1984), and *Television Receiving Sets, Monochrome and Color, from Japan* (50 FR 24278, 24282, June 10, 1985) in support of its position.

Department's Position: We agree with the petitioners that the direct credit period on purchase price sales should include the period from shipment in Taiwan to payment by the unrelated purchaser because this is the period for which the seller assumes the liability. We have used the data submitted in AOC's supplemental response to revise our direct credit calculation. However, we disagree with petitioners that a separate credit calculation needs to be made for the period between payment to AOC-USA and AOC-Taipei. Since AOC-USA is a wholly-owned subsidiary of AOC-Taipei, we consider both entities to be the same party. Finally, we disagree with AOC that the direct credit calculation should start on the day that AOC-USA issues the invoice. Even though AOC-USA issued the invoice, the sales were made by AOC-Taipei, and the shipments were made from Taipei in purchase price transactions. In *OCTG from Israel* and the other cases cited, we stated that the date of shipment and the posting to accounts receivable was usually the same. In this case, the dates are different. However, as explained above, we consider the date of shipment to be controlling.

Comment 14: The petitioners request that the Department furnish documentation to support its conclusion that all of AOC's home market sales were above the cost of production.

Department's Position: AOC complied with the Department's request for a cost of production response. We analyzed the response and requested and received additional source documents to corroborate the data. We used the data submitted by AOC to determine that all sales were made above cost and therefore used all reported sales in our analysis.

Comment 15: AOC notes that it erred in its disfavor on its computer tape by recording an amount for direct credit expenses even for those sales that were paid upon receipt of goods. AOC maintains that the Department should correct the error by removing the credit amount from the sales so marked.

Department's Position: We have deleted the direct credit expense on the sales with terms of "receipt of goods" and letter of credit.

Capetronic

Comment 16: In regard to the Department's tentative revocation with respect to Capetronic, Zenith states that revocation is not permitted unless the respondent has (1) established a history of no sales at less than fair value (LTFV) or no shipments, (2) entered into an agreement calling for the immediate reimposition of antidumping duties if LTFV sales resume, and (3) satisfied the Department that there is no likelihood that LTFV sales will resume. Zenith maintains that Capetronic has not met these required conditions for revocation. Zenith states that Capetronic's margins of 0.46 percent, 0.30 percent, and 0.20 percent for the first and second review finals and the third review preliminary, respectively, constitute a weighted average and indicate that not "all" sales were made at not LTFV. Moreover, Capetronic's earlier margins have been challenged in court and remain unsettled. Even if Capetronic's earlier margins are sustained by the Court, Zenith contends that the Department should not rest a conclusion of no likelihood of dumping on a trend of declining (not disappearing) margins. Zenith contends that the 18.1 percent appreciation of the Taiwanese dollar since the last reviewed period (May 29, 1987) will result in a decline of Capetronic's more recent USPs and a rise in home market costs and calculated FMVs, making an increase in LTFV sales more likely. Zenith cites the statutory and regulatory provisions, 19 U.S.C. 1675(c) and (former) 19 CFR 353.54(a), which state that the Department "may" revoke if the necessary conditions are met—not that the Department "shall" revoke. Thus, the decision whether to revoke is discretionary "even where the necessary preconditions for revocation have been met." Zenith cites *Television Receivers, Monochrome and Color, From Japan; Determination Not to Revoke in Part* (55 FR 11420, March 28, 1990) and *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke In Part* (54 FR 35517, August 28, 1989) as precedent for the Department's denial of revocation in part.

Capetronic counters that the Department has never found it to have sold in the U.S. market at LTFV, unlike the Japanese cases where the Department initially determined that the firms had dumped. Capetronic asserts that a series of *de minimis* determinations over a period spanning from October 19, 1983 through May 29, 1987 clearly establishes that Capetronic has not engaged in any dumping. Capetronic cites §§ 353.21(e) and 353.25(a)(b) of the Department's regulations, and the preamble to 19 CFR part 353 (54 FR 12755, 12757, 12758, March 28, 1989) in support of its contention that *de minimis* is equivalent to zero for purposes of revoking an order. Capetronic claims that Zenith is engaging in pure speculation and conjecture in stating that the appreciation of the Taiwanese dollar since the last reviewed period will make an increase in LTFV sales more likely. Capetronic points out that the Taiwanese dollar appreciated during the first three administrative reviews, yet the Department found no dumping margins. Capetronic asserts that with the exception of one claim in the lawsuit on the first review, Zenith has made no subsequent claims of error regarding Capetronic's margin calculations. Moreover, failure to revoke would violate GATT principles which hold that antidumping duties "shall remain in force only as long as, and to the extent necessary, to counteract dumping which is causing injury."

Department's Position: The preamble to 19 CFR 353.25 (a) and (b) states, "[in] cases in which the Department has issued tentative revocations prior to the effective date of these regulations, it will complete the revocation procedure under the existing regulations. In all other cases, the new regulations will apply." (54 FR 12758, March 28, 1989). Because the effective date of the current regulations was April 27, 1989, and because we published our tentative determination to revoke with respect to Capetronic on May 29, 1987 (52 FR 20130), we have considered Capetronic's request for revocation pursuant to the earlier regulations and established administrative practice. Under the prior regulations and practice, we considered two years plus the gap period (*i.e.*, the period from the end of the second review to the date of publication of the tentative determination to revoke) with *de minimis* margins as a valid criterion for revocation.

As required, Capetronic has furnished a statement agreeing to the immediate suspension of liquidation and reinstatement of the order if circumstances develop which indicate that the merchandise imported subsequent to revocation is being sold at less than fair value. Moreover, there is no evidence on the record to substantiate Zenith's concern that Capetronic is likely to resume sales at dumped prices. Zenith's allegations regarding the likelihood of resumption of sales at LTFV are based on speculation and a misinterpretation of the *de minimis* standard. Capetronic has not dumped during the last three administrative reviews when the Taiwanese dollar appreciated approximately 37 percent. Given Capetronic's proven track record of no dumping during periods of an appreciating Taiwanese dollar, there is no reason to believe that an appreciating Taiwanese dollar would precipitate dumping on Capetronic's part. In contrast to Japanese televisions (cited above) where there were no shipments by the firms requesting revocation and, therefore, no way to determine the absence of dumping, Capetronic has continued to export to the United States at fair value prices. The Department considers a *de minimis* margin to be equivalent to a zero margin, and a weighted-average *de minimis* margin to be equivalent to zero for all sales, regardless of the actual margin on individual sales, for purposes of eligibility for revocation. Capetronic has had *de minimis* margins for at least three years. We are satisfied that Capetronic has met all the requirements established by the Department's prior regulations as prerequisites for revocation. Therefore, we are revoking the order with respect to Capetronic.

Hitachi

Comment 16: Zenith maintains that the average inventory turnover rate used by Hitachi to calculate its inventory carrying costs does not accurately reflect the actual indirect credit costs associated with carrying the inventory.

Since the Department knows the actual periods and the individual models involved, it should use this information to ascertain the indirect credit expense associated with maintaining the inventory. Hitachi argues that it complied with the Department's instructions in the questionnaire by providing information on the average length of time from importation to sale for "each grade and product combination" (by screen size). This information reflects the inventory turnover experience of all models within each screen size during the review period.

Department's Position: Since Hitachi reported the inventory turnover experience of all models within each screen size, as requested in the questionnaire, we have continued to use Hitachi's inventory carrying costs as submitted. Moreover, the cost of carrying merchandise in inventory is indirect and is not absorbed by one particular television set, but by the company's entire operations. It is not necessary to allocate indirect expenses specifically to particular models or sales. Therefore, we have used Hitachi's average inventory carrying costs, as submitted, in our final determination.

Kuang Yuan

Comment 7: Kuang Yuan maintains that the GS&A portion of the constructed value calculation of two models incorporates the royalty cost. Therefore, a deduction for royalty must be made to the constructed value as a circumstance-of-sale adjustment.

Department's Position: We agree and have deducted the royalty expense from constructed value.

Philips

Comment 18: Zenith objects to the Department's use of a small number of third-country transactions to determine Philip's FMV, compared with a much larger U.S. database. Zenith argues that the subsequent weight-averaging of the third country database reduces the number of observations to an even greater extent. Zenith urges the Department to use constructed value as the basis for FMV.

Philips rejects Zenith's argument that the number of third-country sales were inadequate, stating that, to the best of its knowledge, the Department has never used the number of transactions to determine home market or third-country viability. Philips asserts that neither the statute nor the regulations require a minimum quantity of third-country sales in order to determine foreign market value. Moreover, the Department's regulations clearly prefer FMV based on sales to a third country rather than on constructed value (19 CFR 353.48(b) (1990)). Philips also cites the Department's regulations, which hold that a third country may be used for model matches if, *inter alia*, "The volume of sales to the third country is *adequate*" (19 CFR 353.49(b)(1) (1990) (emphasis added)). Philips acknowledges that the regulations do not provide a definition of adequate sales volume, but the Department has traditionally used a similar test for third country market viability as for home market viability (*i.e.*, the Department relies on third country sales when they represent more than five percent of U.S. sales). Philips cites *Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong*, 55 FR 17775, 17777–78 (April 27, 1990) in support of its position. The volume of sales to Panama represents more than five percent of the sales volume to the United States.

Department's Position: We disagree with Zenith. For Philips, there was no such or similar merchandise sold in the home market. Therefore, we determined that home market sales did not constitute a viable basis for calculating FMV, in accordance with the Department's regulations (19 CFR 353.48(a) (1990)). Although neither the statute nor the regulations require a minimum quantity of third-country sales to determine FMV, it is the Department's policy to deem third-country sales to be adequate when they represent more than five percent of the volume sold to the United States (see 19 CFR 353.49(b)(1) (1990)). The aggregate volume of Philips' sales to Panama was greater than five percent of the volume sold to the United States. Accordingly, we used third-country sales to Panama rather than constructed value to determine FMV (see *Sweaters, supra*).

Comment 19: Zenith objects to the Department's extension of the 90/60 day matching exercise back to 120 days in the case of Philips. Zenith urges the Department to base its final analysis on constructed value. Philips asserts that the Department committed no error in conducting its model match exercise because the models selected beyond 90 days back were matched to such or similar merchandise. Moreover, the particular circumstances in this case warrant matches up to 120 days back as these sales account for an insignificant proportion of Philips, total sales to the U.S. market.

Although Philips believes the Department should not alter its preliminary determination, it offers two alternatives to reaching back 120 days: (1) Use an alternative comparison model, or (2) use the weighted average of all other sales as best information available.

Department's Position: In our preliminary results, we elected to reach back 120 days to obtain an appropriate comparison for FMV, as the sales in question represented a small percentage of U.S. sales. However, we agree with Zenith that it is more appropriate to follow our traditional 90/60 rule to obtain a matching sale in the home market. Therefore, we have opted to use the alternative home market comparison model suggested by Philips, as it maintains the integrity of the 90/60 day policy, yet relies on similar merchandise as the basis for comparison.

Proton

Comment 20: In calculating Proton's tax base for merchandise from a bonded factory, Zenith argues that the Department erred in the same manner as it did in calculating AOC's tax base (see Comment 9). With respect to products shipped from Proton's unbonded factory, Zenith asserts that the Department erred in using the price charged by Proton's subsidiary to the first unrelated U.S. purchaser as the tax base in calculating the U.S. commodity tax. Zenith maintains that it is apparent that the tax base of a product from an unbonded warehouse (a buildup of production costs, selling expenses, packing, and profit) is limited to expenses incurred *in Taiwan*. Basing the tax on a U.S. price implies that Taiwan would subjugate its revenue statutes to the vagaries of other sovereign states' economic policies.

Department's Position: We disagree with Zenith. In calculating the U.S. tax base, we used the same formulae used by respondents to calculate the home market tax base and applied them to the U.S. data (see our response to AOC, Comment 9).

Comment 21: Proton objects to the Department's treatment of in-house warranty labor expenses as indirect selling expenses, stating that this methodology contradicts the decision of the CIT in *AOC International, Inc.* v. *United States*, 721 F. Supp. 314, 318 (1989). In *AOC*, the court held that these expenses should be considered direct. The petitioners contend that the Department correctly treated Proton's in-house warranty labor expenses as indirect selling expenses.

Department's Position: We agree with the petitioners. The *AOC* remand order is not a final decision, is not yet ripe for appeal, and may yet be reversed. Therefore, we see no reason to change our long-standing practice of treating such expenses as indirect expenses (see,

Color Television Receivers from Korea, 55 FR 26230).

Comment 22: Zenith asserts that Proton's home market inland freight claim consists entirely of such general expenses as depreciation and insurance, expenses which cannot be attributable to the transport of any particular merchandise and should only be considered indirect expenses contributing to the pool of ESP offset expenses. Proton maintains that the cost of operating delivery trucks is a legitimate home market inland freight expense. Proton asserts that the Department rejected Zenith's argument with regard to AOC's home market inland freight claim in the second review of Taiwan CTVs (see *Color Televisions from Taiwan,* 53 FR 49712, December 9, 1988) and should do so again in this review.

Department's Position: We disagree with Zenith. If Proton's inland freight were contracted to an outside agent, the price to Proton would include elements such as insurance and depreciation. Therefore, it is necessary to deduct all the costs of operating delivery trucks from the home market selling price. Proton reported the underlying cost of providing the inland freight service and we have deducted this cost from foreign market value.

Comment 23: Zenith contends that Proton's claim for a pre-sale warehousing circumstance-of-sale adjustment in the home market is unjustified, as it is apparent that Proton's home market sales (like its export shipments) are made directly from the factory. Zenith asserts that, unlike the exported merchandise, which involves ocean transport time and U.S. storage, no comparable expense exists in the home market because there is no pre-sale distribution facility carrying stock. Therefore, this claim should be denied in its entirety. Proton disputes Zenith's contention and maintains that its Taiwan facilities do, in fact, include a warehouse designated to carry stock for home market distribution.

Department's Position: Proton incurs pre-sale warehousing expense in the home market. Therefore, we have accepted Proton's calculation of an indirect interest expense for the inventory carrying period from the time the merchandise leaves the factory until the merchandise is sold in the home market.

Comment 24: Zenith asserts that the Department has no basis for assuming that Proton USA's payment to its parent occurs after the U.S. subsidiary receives payment from its unrelated purchaser. Proton USA must establish that it receives payment from its customers prior to its payment to the parent. Proton counters that the time between the sale to the unrelated customer and payment to Proton by that customer must be subtracted from the "imputed interest" calculation, as it represents a period after resale that is already covered in the separate calculation of Proton USA's direct credit expense.

Department's Position: We disagree with Zenith. Proton USA pays Proton Taiwan after receipt of payment from the unrelated customer. Proton USA calculates the indirect credit period from the date of exportation to the date of payment by the subsidiary to its parent, Proton Taiwan. Since Proton USA resells the merchandise and receives payment from the unrelated customer prior to paying Proton Taiwan, the period between resale and payment must be deducted from the imputed interest period to avoid double-counting. This period is already covered in the separate direct credit calculation.

RCA

Comment 25: Zenith asserts that there is no indication that RCA has included the customs user fee in the aggregate variable "landcost." Since RCA did not report dutiable values, Zenith believes the Department should extrapolate dutiable values from the model-specific duty amounts given by RCA and reduce ESP by the user fee rate applied to those computed values. RCA counters that Zenith's assumption that the customs user fee was not reported in RCA's data is erroneous. RCA cites the Department's "Report on RCA's Domestic Verification" (January 25, 1988) as evidence that the landed costs include the customs user fee.

Department's Position: We agree with the petitioners. We reexamined the verification documents and found that the customs user fee of 0.22% of the entered value was not included in the landed costs element of RCA's submission. As best information available, we multiplied the net unit price by 0.22% for all sales made after December 1, 1986, the effective date of the customs user fee, and deducted the result from USP.

Shin-Shirasuna

Comment 26: Shirasuna maintains that the Department's formula for determining the foreign market value of televisions sold in third-country markets erroneously adds rather than subtracts the amount of "commissions" paid on behalf of such sales to the third country. Shirasuna contends that this "sales commission" is not a commission paid to a third party, but rather a directly-related selling expense incurred in assisting the purchaser to sell Shirasuna CTVs in a third-country market.

Department's Position: We agree. We have made the downward adjustment to foreign market value to reflect commission payments to third country purchasers that were not incurred in Shirasuna's sales to the United States.

Comment 27: Shirasuna argues that the Department's sales-below-cost analysis should be based not on a model-by-model analysis, but on an examination of all sales of such or similar merchandise.

Department's Position: We disagree with Shirasuna. In our preliminary determination, we performed a model-by-model cost comparison. It is preferable to perform the cost test on a model-specific basis because we make model-specific comparisons in our price-to-price analysis (see *Korean Television Receivers,* 55 FR 26225, 26228, June 27, 1990, Comment 14).

Comment 28: Shirasuna objects to the Department's selection of a 20-inch stereo model sold to a third-country market as a comparison model for a 19-inch mono model sold to the U.S. market. Shirasuna states that the Department is obliged to compare sales of the most similar merchandise for which qualifying third-country sales exist when there are no sales of identical merchandise. Because Shirasuna submitted evidence of qualifying third-country sales of several models having 19-inch screens and mono-audio capability, it feels the Department should select sales of one of these 19-inch models for comparison purposes. Shirasuna suggests that the Department compare the U.S. sale of model 19A1 with the sale of models 19C1 or 19C3, which have the same screen size and audio capability. In addition, Shirasuna notes that model 19C3 has no sales below cost. The petitioners state that the Department correctly compared sales of U.S. model 19A1 with third-country model 20C3 because the Department found the third-country model, 19C1, suggested by Shirasuna, to have been sold below cost.

Department's Position: As the petitioners note, we did not use model 19C1 for comparison purposes because we found that either there were no contemporaneous sales or the contemporaneous sales were below cost. However, we agree with Shirasuna that the Department is obligated to select the most similar model to calculate FMV. We have, therefore, used model 19C3 in our final analysis.

Comment 29: Shirasuna objects to the Department's selection of a sale of model 14C1 to a third country as a

comparison model for the U.S. sale of model 13A3. Shirasuna contends that the Department is obliged to match qualifying sales on the most similar merchandise available in calculating FMV. Shirasuna suggests that a better match for model 13A3 is either model 13C1 or model 13C2 sold to third-country purchasers. Moreover, in this instance, neither cost of production nor other factors disqualify these sales from consideration.

Department's Position: We agree and have used third-country model 13C2 as our comparison model in the final analysis.

Comment 30: Shirasuna asserts that the Department should use constructed value or third-country sales of model 20C2 rather than model 20C3 for comparison to U.S. model 20A4. Shirasuna notes that model 20C2 is virtually identical to model 20C3. In addition, the sale of model 20C2 occurred only one month before the U.S. sale and, therefore, is more contemporaneous than the sale of model 20C3 used by the Department. The petitioners contend that Shirasuna failed to explain why model 20C3 is inadequate for comparison purposes. Therefore, the Department should continue to compare sales of U.S. model 20A4 with third-country model 20C3.

Department's Position: We agree with the petitioners. We use the most similar third-country model to compare with the U.S. model, whenever possible. During the model match process, Shirasuna did not object to our selection of model 20C3. In this instance, Shirasuna has failed to present a valid reason for using constructed value instead of model 20C3 as the basis for FMV. Therefore, we have continued to use model 20C3 as the basis for FMV in our final analysis.

Comment 31: Shirasuna contends that the Department incorrectly matched sales of U.S. model 5A1 to certain third-country sales of model 5P1 within the same month, but after the U.S. sale. Since it is normally the Department's preference to use sales taking place before the U.S. sale, the sale of model 5P1 occurring before the U.S. sale date is a better match than the later sales selected by the Department. Shirasuna also notes that the Department appears to have made a clerical error in calculating the quantity of the third-country sales of model 5P1.

Department's Position: While it is the Department's policy to go back 90 days prior to going forward 60 days, it is preferable to use first a sale within the identical month of the U.S. sale for FMV. Therefore, we have continued to use the third-country sales within the same month for comparison purposes, whether these sales occurred before or after the U.S. sale date. We have corrected the clerical error noted by Shirasuna.

Comment 32: The petitioners contend that Shirasuna sold CTVs in the United States and a third-country market to the same customer. Further, certain of these sales have the same customer order number, contract date, and sales price as those of the U.S. sale. Petitioners believe that comparison of the prices on these sales is inappropriate because they are all part of the same sale and do not represent different sales. Shirasuna counters that nothing in the antidumping law or in the Department's regulations directs or authorizes the Department to ignore valid third-country sales for purposes of calculating FMV simply because those sales are made to a third-country purchaser who is related to the U.S. purchaser. Shirasuna cites *Certain Forged Steel Crankshafts from Japan* (52 FR 36984 October 2, 1987) and the second administrative review of *Color Television Receivers from Taiwan* (53 FR 49706, 49715 December 9, 1988) in support of its position.

Department's Position: We agree with Shirasuna. For these final results, we have continued to use these sales as the basis for FMV.

Shin-Shirasuna/Capetronic

Comment 33: In answer to the Department's request for comments on the disputed U.S. sales involving Shin-Shirasuna and Capetronic, Shirasuna reiterates its contention that it is neither the producer nor the reseller in this instance. Shirasuna claims that it is not the reseller of the CTVs because it had no influence over the terms of sale to the unrelated U.S. customer, and that it is not the producer of the CTVs because Capetronic decided what kind and quantity to produce, how to produce them, what component parts to buy for assembly, and how much to pay for the parts. Capetronic argues that because Shirasuna manufactured the parts into televisions and knew the ultimate destination to be the United States, these sales are in fact Shirasuna's. Capetronic argues further that, if these sales are characterized as a processing arrangement, the Department has generally treated the processor (here, Shirasuna) as the manufacturer.

Zenith states that the transactions in question appear to be Shirasuna's sales as Shirasuna produced and sold these models with full knowledge of their ultimate destination to the United States. Therefore, Shirasuna's prices to Capetronic should form the basis of USP. However, if the Department decides that Capetronic is the producer and seller, Zenith submits that it is all the more inappropriate to entertain revocation for Capetronic.

The petitioners believe the Department should use best information available (BIA) with respect to both Shirasuna and Capetronic as Shirasuna failed to supply adequate information to enable the Department to calculate dumping margins, and Capetronic submitted contradictory information concerning its role in these transactions.

Department's Position: Because Shin-Shirasuna (Taiwan) is the company that actually assembles the CTVs in question, we consider Shirasuna to be the producer of those CTVs. Moreover, Shirasuna is also the company which ships the CTVs to the United States. In this case, Shirasuna (Taiwan) entered into a "tolling" arrangement with Capetronic (Hong Kong), whereby Shirasuna assembled CTVs from third-country parts provided by Capetronic. In past proceedings involving tolling arrangements like this one, where the amount of tolling performed has not been insignificant, we have treated the assembler (here Shirasuna) as the producer/manufacturer/exporter. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value; Certain Headware from the People's Republic of China* (53 FR 45138, November 8, 1988). To be consistent with past practice, we have used the tolling fee charged by Shirasuna to Capetronic as the basis for U.S. price. Because Shirasuna had no "tolled" sales in Taiwan or to other countries, we have based FMV on the constructed value of Shirasuna's tolling operation. Because there is sufficient information on the record to perform these calculations, we did not resort to BIA.

Tatung

Comment 34: Tatung objects to the Department's use of best information available (BIA) to determine its weighted-average margin. Tatung maintains that the Department should rely on the factual information it submitted after verification because Tatung's response contained only minor inaccuracies and inconsistencies, which it proceeded to correct and submit to the Department. Further, the Department's use of BIA was arbitrary and not supported by evidence on record. Tatung contends that BIA can only be used for noncompliance with an information request, and Tatung complied with all of the Department's requests. According to Tatung, the Department could easily have resolved all questions concerning Tatung's data during the period between verification

and the preliminary determination. According to Tatung, even assuming that some form of BIA is justified, the Department's decision to apply the highest shipper's rate is unreasonable. Tatung argues that if the Department believes it must use BIA, some alternative approach, based in substantial part on actual verified company data, should be used.

The petitioners believe that the Department was correct in using the best information available in its preliminary determination for Tatung. Tatung's characterization of the mistakes uncovered at verification as minor is incorrect, given the extensive problems identified by the Department with the limited group of sales studied. The petitioners point out that the Department generally does not accept information from a respondent at or subsequent to verification and that the Department has no legal obligation to request additional data from Tatung. They cite *Photo Albums and Filler Pages from Korea* (50 FR 43754, 43756, October 29, 1985), in support of their position.

Department's Position: We agree with the petitioners. We used BIA because in virtually all of the sales we sampled at verification, we found numerous inconsistencies in sales traces, commissions, and reported prices. These inconsistencies involved unreported or misreported data. We found additional errors in the reporting or allocation of ocean freight, brokerage and handling, interest rate calculations, advertising, and general and administrative expenses. After verification, Tatung filed certain corrected information for the record and submitted additional corrections to the sales listing. However, we were unable to use these additional data because they could not be substantiated. Contrary to Tatung's characterization, we do not deem the problems found at verification to be minimal. Because of the significant deficiencies found in the sample verified, we concluded that Tatung's data were unreliable. Therefore, we have continued to use the BIA rate we applied in the preliminary results.

Final Results of the Review and Revocation in Part

Based on our analysis, we have changed the rates determined in our preliminary results for AOC, Kuang Yuan, Proton, RCA, and Shin-Shirasuna. We have determined the weighted-average margins to be:

Manufacturer/ exporter	Period	Margin (percent)
AOC International, Inc.	04/01/86-03/31/87	1.64
Capetronic (BSR) Ltd.	04/01/86-05/29/87	0.20
Funai Electric Company.	04/01/86-03/31/87	4.44
Hitachi Television (Taiwan) Ltd.	04/01/86-03/31/87	4.44
Kuang Yuan	04/01/86-03/31/87	0.00
Nettek Corp., Ltd.	04/01/86-03/31/87	1.30
Philips Electronic Industries.	4/01/86-03/31/87	0.76
Proton Electronics.	04/01/86-03/31/87	0.09
RCA Taiwan, Ltd.	04/01/86-03/31/87	4.07
Shin-Shirasuna Electric Co.	04/01/86-03/31/87	1.50
Tatung Co	04/01/86-03/31/87	4.44

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. Since the margins for Capetronic, Kuang Yuan, and Proton are less than 0.5 percent and therefore *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for these firms.

For any entries of this merchandise from a new exporter, whose first shipment occurred on or after April 1, 1987 and who is unrelated to any reviewed firm, a cash deposit of 4.44 percent will be required. These cash deposit requirements and waivers are effective for all shipments of CTVs from Taiwan, except for video monitors, complete or incomplete, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until publication of the final results of the next administrative review.

In accordance with 19 CFR 353.22 (1989), we are revoking the antidumping order with respect to Capetronic. The revocation applies to all unliquidated entries of this merchandise manufactured and exported by Capetronic and entered, or withdrawn, from warehouse, for consumption on or after May 29, 1987, the date of our tentative determination to revoke in part.

This administrative review, revocation in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and (19 CFR 353.22 (1989) and 353.54 (1988)).

Dated: October 31, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-26498 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-804]

New Steel Rails, Except Light Rails, From Canada; Termination of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On October 26, 1990, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on new steel rails, except light rails, from Canada. This review has now been terminated.

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-8312/3601.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 1990, at the request of Algoma Steel Corporation, Limited (Algoma), a manufacturer of the subject merchandise, the Department initiated an administrative review of the antidumping duty order on new steel rails, except light rails, from Canada (55 FR 43153). The review covered Algoma and the period September 20, 1989 through August 31, 1990. On October 25, 1990, Algoma withdrew its request for review. No other interested party had requested a review of Algoma. As a result, the Department has terminated the review.

This notice is published in accordance with section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: November 1, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-26497 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Western Pacific Bottomfish and Seamount Groundfish Fisheries

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the Western Pacific Fishery Management Council (Council) has submitted Amendment 3 to its Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) for Secretarial review and is requesting comments from the public. Copies of Amendment 3 may be obtained from the Council at the address below.

DATES: Comments on the amendment should be submitted on or before December 31, 1990.

ADDRESSES: All comments should be sent to, E.C. Fullerton, Regional Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the amendment and the environmental assessment are available from the Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, Terminal Island, California (213) 514-6660 or Alvin Katekaru, NMFS, Pacific Area Office, Honolulu, HI (808) 955-8831.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving a plan or amendment, immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider all public comments in determining whether to approve the plan or amendment.

The Magnuson Act also established seven national standards that fishery management plans must meet to be approvable, and requires the Secretary to publish guidelines for the Councils to use in applying these national standards. The guidelines (50 CFR part 602) were revised in 1989 (54 FR 30711 *et seq.*) to require that the Councils amend their fishery management plans to include definitions of overfishing for the respective fisheries. Amendment 3 to the FMP is intended to address the requirements of the Secretary's guidelines for compliance with national standards 1 and 2 of the Magnuson Act.

The amendment defines overfishing (i.e., recruitment overfishing) in terms of Spawning Potential Ratio (SPR). SPR is calculated as spawning stock biomass per recruit (SSBR) of the fished population divided by the SSBR of the unfished population. The SPR decreases as fishing mortality increases and ranges from 1.0 to 0.0. A bottomfish species is considered overfished when SPR is equal to or less than 0.2. The pelagic armorhead, a seamount species, is considered overfished when its SPR measured for all seamounts is equal to or less than 0.2 or when its SPR on the Southeast Hancock Seamount alone is equal to or less than 0.4. Two methods of estimating SPR are described in the amendment: An equilibrium estimator, based on yield-per-current theory, and a dynamic estimator, an estimate of the current spawning stock biomass divided by the spawning stock biomass when the fishery was initiated. The dynamic estimator will be used initially to measure overfishing because of the greater availability of data; however, the Council intends to use both estimators based on the best scientific information available. Amendment 3 includes a process by which the Council will evaluate annually the status of stocks and conditions in the fishery to determine if any stock is overfished relative to the overfishing definitions. It is the Council's intent to take action under the FMP so that fishing will not drive a stock down to a level where SPR approaches or reaches the minimum level, but to manage the bottomfish and seamount groundfish fisheries at a higher, optimum level of productivity.

No Federal regulatory action is necessary to implement this amendment. The Council has determined that the proposed amendment is consistent to the maximum extent practicable with the coastal zone programs of the governments in the Council's region and has asked for concurrence with this determination. The amendment incorporates an environmental assessment, which is available upon request (see ADDRESSES). It has no direct effect on either the fishery resources or fishery participants and will not require rulemaking; therefore, neither a Regulatory Impact Analysis nor a Regulatory Flexibility Analysis is necessary. There will be no impact on marine mammals or endangered species. There is no taking under Executive Order 12630. No information collection burdens are imposed. If actions are taken subsequently to implement new conservation and management measures to prevent overfishing, the appropriate analyses and determinations will be made at that time. Amendment 3 does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

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

Dated: November 6, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-26593 Filed 11-8-90; 1:40 pm]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council and its Committees will hold a public meeting, except for the sessions noted below, on November 12-15, 1990, at the Omni Tampa Hotel at Westshore, 700 North Westshore Boulevard, Tampa, FL. The Council will also conduct a public hearing on November 12, 1990.

Council

The Council will meet on November 14 at 8:30 a.m., and adjourn at 5 p.m. The following items will be discussed:

(1) Consideration of appointment of committee members;

(2) Public testimony on overfishing amendments for stone crab, spiny lobster, billfish, and shrimp (9 a.m. to 10:30 a.m.);

(3) Review of committee recommendations (10:30 a.m. to 12 noon); and (4) Consideration of the Shark Amendment Options Paper (1:30 p.m. to 4:45 p.m.). The Council will also convene the Personnel Committee (in closed session—not opened to the public) from 4:45 p.m. to 5 p.m.). On November 15 at 8:30 a.m., the Council will: (1) Receive Reef Fish, Budget, and Habitat Protection Management Committee reports; (2) receive Enforcement Reports; (3) conduct orientation meetings; and (4) hear Director's reports. It will adjourn at 12 noon.

Committees

Committee meetings will begin on November 12 at 1 p.m., with a meeting of the Reef Fish Management Committee. Adjournment will be at 5:30 p.m. On November 13, at 8 a.m., the Shark Management Committee, Spiny Lobster Management Committee, Budget Committee, Stone Crab Management Committee, Billfish Management Committee, Shrimp Management Committee, and Habitat Protection Committee will meet. The Personnel Committee also will meet (in closed session—not opened to the public). Adjournment will be at 5 p.m.

Public Hearing

On November 12, there will be a public hearing on Billfish Amendment #1 from 6 p.m. to 7 p.m. Written comments will be accepted until November 12 at the address indicated below.

For more information contact Wayne F. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228-2815.

Dated: November 5, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-26524 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Crustaceans Plan Monitoring Team (PMT) will hold a public meeting on November 14, 1990, at the National Marine Fisheries Service, Honolulu Laboratory, conference room, 2570 Dole Street, Honolulu, HI.

The agenda is: To develop a system to limit entry and reduce effort in the Northwestern Hawaiian Islands (NWHI) lobster trap fishery.

For more information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (803) 523-1368.

Dated: November 6, 1990.

David S. Crestin,

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

[FR Doc. 90-26566 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in India

November 1, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: November 2, 1990.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 640, 641, 642 and 647/648 are being increased, variously, by application of swing and carryforward.

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 54 FR 50797, published on December 11, 1989). Also see 54 FR 53351, published on December 28, 1989.

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

November 1, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive of December 21, 1989, as amended, issued to you 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 India and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on November 2, 1990 you are directed to increase the limits for textile products in the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and India:

Category	Adjusted 12-month limit[1] (dozen)
Sublevels in Group II:	
640	168,322
641	982,684
642	302,620
647/648	426,575

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

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. 90-26501 Filed 11-8-90; 8:45 am]

BILLING CODE 3510-DR-M

Amendment and Adjustment of Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Peru

November 6, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending and adjusting limits.

EFFECTIVE DATE: November 14, 1990.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of thee limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Peru have agreed to amend the current bilateral textile agreement to increase the sublimit for Categories 338–S/339–S. In addition, the limits for Categories 338/339 and 338–S/339–S are being increased for swing and carryforward, reducing the limit for Category 219 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 50795, published on December 11, 1989.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 6, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive of December 5, 1989 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Peru and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on November 14, 1990, the limits are being increased as follows:

Category	Amended twelve-month limit [1]
219	14,864,135 square meters.
338/339	798,000 dozen of which not more than 656,287 dozen shall be in Categories 338–S/339–S.[2]

[1] The sublimit has not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.003, 6105.90.3010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2046, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112,11,0040, 6114.20.0010 and 6117.90.0022.

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. 90–26538 Filed 11–8–90; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 10, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION:

On July 20, August 10 and September 14 and 21, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 29647, 32682, 37930 and 38833) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Lead, Pencils
7510–01–317–6421
7510–01–317–6422

Services

Janitorial/Custodial, U.S. Post Office and Courthouse, Floors 1 and 2 only, Little Rock, Arkansas
Janitorial/Custodial, Building 225, Robins Air Force Base, Georgia
Janitorial/Custodial, BEQ Naval Station, Staten Island, New York
Janitorial/Custodial, Navy Commissary Store, Naval Base, Norfolk, Virginia

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–26582 Filed 11–18–90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from the Procurement List commodities to be produced and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 10, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to

procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to the Procurement List:

Commissary Shelf Stocking, Custodial and Warehousing, Luke Air Force Base, Arizona
Grounds Maintenance, Federal Service Center, Bell, California
Janitorial/Custodial, Federal Building, 410 W. Michigan Avenue, Kalamazoo, Michigan
Janitorial/Custodial, Federal Building, 100 North Warren, Saginaw, Michigan

Deletions

It is proposed to delete the following commodities from the Procurement List:

Wire Bundle Assembly, 1680-00-222-3876, 1680-00-826-7752, 1680-00-881-4215, 1680-00-883-4487, 1680-00-884-0409, 1680-00-894-3991, 1680-00-919-3706, 1680-00-974-5275, 1680-00-974-5276, 1680-00-998-8594, 1680-00-125-9646
Wedge, Hardwood, 5510-00-640-9237
Base, Grooming Unit, 7105-01-NSH-0001
Bookcase, Drop-Lid, 7105-01-047-3559
Chest, Five-Drawer, 7105-01-047-3555
Chest, Six-Drawer, 7105-01-049-9587
Chest, Stereo, 7105-01-047-3575
Overchest, 7105-01-047-3576

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-26583 Filed 11-8-90; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, secs. 10(a) and 41 CFR 101-6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting on Tuesday, November 27, 1990 in the Fifth Floor Hearing Room at the Commission's Washington, D.C. headquarters located at room 532, 2033 K Street, NW., Washington, DC 20581. This meeting will be held between 1:30 p.m. and 4:30 p.m.

The agenda consists of the following:

1. Welcoming remarks.
2. Update on Commission activities concerning financial products.
3. Discussion of circuit breakers and other measures that affect the interaction between equity and equity derivative markets, including a discussion of the practical experience with circuit breaker rules and their effect on international market linkage.
4. A discussion of the adequacy of existing regulatory systems to address changes likely to occur in the next decade, such as the growth of electronic trading, the increasing internationalization of the markets and the development off-exchange products.
5. Discussion of possible areas for future committee consideration, particularly areas of concern identified in Agenda Item 4.
6. Any other business that may properly come before the Committee, including the timing of the next meeting.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on financial products issues. The purposes and objectives of the Advisory Committee are more fully set forth in the April 28, 1989 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner William P. Albrecht, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Nancy E. Yanofsky, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, to be received prior to the date of the meeting. Members of the public who wish to make oral statements also should inform Ms. Yanofsky in writing at the above address at least three days prior to the meeting. Provision will be made, if time permits, for an oral presentation of reasonable duration.

Issued by the Commission in Washington, DC on November 7, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-26717 Filed 11-9-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Conduct of Employees; Waiver

Section 602(a) of the Department of Energy Organization Act (Pub. L. No. 95-91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) where exceptional hardship will result or where the interest is a pension, insurance, or other similarly vested interest.

Mr. Owen W. Lowe has been selected for the position of Director, Office of Nuclear Safety Self-Assessment in the Department of Energy. Mr. Lowe has a vested interest in the Employee Retirement Plan of Stone and Webster, Inc., as a result of his previous employment with Stone and Webster. Stone and Webster, Inc. is an "energy concern" within the meaning of section 601(b) of the Act. Therefore, Mr. Lowe's pension interest is subject to the divestiture requirement of section 602(a) of the Act.

It has been established to my satisfaction that Mr. Lowe's interest in the Employee Retirement Plan of Stone and Webster, Inc., is a vested pension interest within the meaning of section 602(c) of the Act. Accordingly, I have granted Mr. Lowe a waiver of the divestiture requirements of section 602(a) of the Act for the duration of his employment with the Department, with respect to his interest in the Stone and Webster Employee Retirement Plan.

In accordance with section 208, title 18, United States Code, Mr. Lowe will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon Stone and Webster, Inc., unless his supervisor and the Counselor agree that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him.

Dated: November 1, 1990.

James D. Watkins,

Admiral, U.S. Navy (Retired), Secretary of Energy.

[FR Doc. 90-26594 Filed 11-8-90; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Energy.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Public L. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information:

(1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC));

(2) Collection number(s);

(3) Current OMB docket number (if applicable);

(4) Collection title;

(5) Type of request, *e.g.*, new, revision, extension, or reinstatement;

(6) Frequency of collection;

(7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit;

(8) Affected public;

(9) An estimate of the number of respondents per report period;

(10) An estimate of the number or responses per respondent annually;

(11) An estimate of the average hours per response;

(12) The estimated total annual respondent burden; and

(13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before December 10, 1990. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration
2. EIA-14, 182, 782A,B,C, 821, 856, 863, and 877
3. 1905-0174
4. Petroleum Marketing Program
5. Revision
6. Monthly, Annually, and Triennially
7. Mandatory
8. Businesses or other for profit
9. 17,522 respondents
10. 3.74 responses per respondent
11. 2.22 hours per response
12. 145,532 hours
13. The Petroleum Marketing Program surveys collect information on costs, sales, prices, and distribution for crude oil and petroleum products. Data are published in petroleum publications and in multifuel reports. Respondents are refiners, first purchasers, gas plant operators, resellers/retailers, motor gasoline wholesalers, suppliers, distributors, and importers.

Authority: Secs. 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, November 5, 1990.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-26597 Filed 11-8-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-519-000, et al.]

Consolidated Edison Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Consolidated Edison Co.

[Docket No. ER90-519-000]

October 31, 1990.

Take notice that on September 20, 1990, Consolidated Edison Company ("Con Edison") tendered for filing a proposed amendment to its rate schedule filed on July 30, 1990. The proposed rate schedule includes a planning agreement between Con Edison and the Power Authority of the State of New York (NYPA) providing in part that Con Edison and NYPA will make certain reciprocal sales of supplemental power and energy. The amended filing states and explains the rates applicable to sales of supplemental power and energy.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Houlton Water Co., Van Buren Light and Power District, and Eastern Maine Electric Cooperative v. Maine Public Service Co.

[Docket No. EL91-5-000]

November 1, 1990.

Take notice that on October 29, 1990, Houlton Water Company, Van Buren Light and Power District and Eastern Maine Electric Cooperative filed a complaint against Maine Public Service Company. In their filing the complaining parties assert that Maine Public Service Company intends to continue collecting charges from the complaining parties that are in violation of a settlement agreement among the complaining parties and Maine Public Service Company. The complaining parties request summary disposition of their complaint and an expeditious grant of the relief that they request, an order by the Commission requiring Maine Public Service Company to cease collecting the charges at issue after December 1, 1990.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Louisiana Public Service Commission v. Entergy Services, Inc.

[Docket No. EL90-45-000]

November 1, 1990.

Take notice that on October 25, 1990, the Louisiana Public Service Commission tendered for filing an amendment and supplement to its complaint in this docket. The material submitted by the Louisiana Commission consists of new updated testimony of Mr. Matthew Kahal, a witness for the Louisiana Commission, that directly examines the return on equity under the System Agreement among Entergy Services, Inc. and the Entergy Operating Companies.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Eastern Edison Co.

[Docket No. ER91-59-000]

November 1, 1990.

Take notice that on October 29, 1990, Eastern Edison Company ("Eastern") tendered for filing a letter agreement between itself and Middleborough Gas & Electric Department ("Middleborough"). This agreement provides for installation, ownership, and

payment for a new gas circuit breaker installed by Eastern at Eastern's East Bridgewater substation.

Comment date: November 15, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Montana Power Co.

[Docket No. ER91-60-000]

November 1, 1990.

Take notice that on October 29, 1990, the Montana Power Company ("MPC") tendered for filing an Agreement for Purchase of Power dated June 8, 1982 ("1982 Agreement") between MPC and Big Horn County Electric Cooperative, Inc. ("Big Horn"), Amendment No. 1 to the 1982 Agreement dated February 2, 1990, and an Assignment of the 1982 Agreement by Big Horn to Central Montana Electric Power Cooperative, Inc. MPC has requested waiver of certain Commission regulations in order to permit the 1982 Agreement Amendment No. 1 thereto, and the Assignment to become effective in accordance with their terms.

Comment date: November 15, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Northern States Power Co. (Minnesota); Northern States Power Co. (Wisconsin)

[Docket No. ER91-21-000]

November 1, 1990.

Take notice that on October 29, 1990, Northern States Power Company—Minnesota and Northern States Power Company—Wisconsin ("NSP") tendered an amendment to their filing in this docket correcting it for inadvertent errors in the transmission services tariff making available reserved and interruptible transmission service on the combined transmission systems of the two companies.

Comment date: November 15, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. West Penn Power Co.

[Docket No. ER91-61-000]

November 1, 1990.

Take notice that on October 30, 1990, West Penn Power Company tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes would increase revenues from jurisdictional sales and service by approximately $188,451. The filing company states that the changes proposed are for the sole purpose of recovering increased tax expense incurred by West Penn Power Company.

Comment date: November 15, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Power Co.

[Docket No. ES91-4-000]

November 1, 1990.

Take notice that on October 29, 1990, Consumers Power Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act seeking authority to issue and sell or guarantee up to $900 million in secured and/or unsecured short-term debt, including but not limited to notes, drafts, debentures and commercial paper. The issuance, sale or guarantee of the secured and/or unsecured short-term debt would be from time to time, during the period January 1, 1991 through December 31, 1992, with maturities of 364 days or less.

Comment date: November 28, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26507 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-232-000, et al.]

Tennessee Gas Pipeline Co., et al.; Natural Gas Certificate Filings

October 30, 1990.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Co.

[Docket No. CP91-232-000]

October 30, 1990.

Take notice that on October 23, 1990, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252 filed in Docket No. CP91-232-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Tejas Power Corporation (Tejas), under Tennessee's blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport, on an interruptible basis, up to 210,000 dt equivalent of natural gas per day for Tejas. Tennessee states that construction of facilities would not be required to provide the proposed service.

Tennessee states that the maximum day, average day, and annual transportation volumes would be approximately 210,000 dt, 210,000 dt and 76,650,000 dt equivalent of natural gas respectively.

Tennessee advises that service under § 284.23(a) commenced September 27, 1990, as reported in Docket No. ST91-865-000.

Comment date: December 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. High Island Offshore System

[Docket No. CP91-221-000 et al.]

October 30, 1990.

Take notice that Applicant filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

[1] These prior notice requests are not consolidated.

Comment date: December 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

Applicant: High Island Offshore System, 500 Renaissance Center, Detroit, MI 48243.

Blanket Certificate Issued in Docket No.: RP89-82-000.

Docket No. (date filed)	Shipper name	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related[2] dockets
			Receipt	Delivery		
CP91-221-000 (10-23-90)	Corpus Christi Oil and Gas Company.	36,000 36,000 13,140,000	Offshore LA	Offshore LA	08-23-90, IT	ST90-4786-000
CP91-222-000 (10-23-90)	Brooklyn Interstate Natural Gas Corp.	225,616 225,616 82,349,840	Offshore TX, Offshore LA.	Offshore LA	08-22-90, IT	ST90-4539-000
CP91-223-000 (10-23-90)	Spindletop Gas Distribution System.	140,000 140,000 51,100,000	Offshore TX, Offshore LA.	Offshore TX, Offshore LA.	08-23-90, IT	ST90-4529-000
CP91-224-000 (10-23-90)	Coast Energy Group, Inc.	233,000 233,000 85,045,000	Offshore TX Offshore LA.	Offshore TX, Offshore LA.	08-22-90, IT	ST90-4534-000
CP91-225-000 (10-23-90)	Public Service Electric and Gas Company.	300,000 300,000 109,500,000	Offshore TX, Offshore LA.	Offshore LA	08-22-90, IT	ST90-4538-000
CP91-226-000 (10-23-90)	Neches Pipeline System	140,000 140,000 51,100,000	Offshore TX, Offshore LA.	Offshore TX, Offshore LA.	08-22-90, IT	ST90-4537-000
CP91-227-000 (10-23-90)	Delmarva Power and Light Company.	100,000 100,000 36,500,000	Offshore TX, Offshore LA.	Offshore TX, Offshore LA.	08-22-90, IT	ST90-4535-000

[1] Quantities are shown in Mcf unless otherwise indicated.
[2] If an ST docket is shown, 120-day transportation service was reported in it.

3. Gateway Pipeline Co.

[Docket No. CP89-471-002]

October 30, 1990.

Take notice that on October 23, 1990, Gateway Pipeline Company (Gateway), 600 Travis Street, P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-471-002, an application to amend its pending application in Docket No. CP89-471-001, to authorize Gateway to relocate, construct and operate a lateral line 0.14 mile to connect Gateway with the relocated Jubilee Pipeline Company (Jubilee) sweetening plant in Mobile County, Alabama, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Gateway proposes to construct and operate approximately 1.19 miles of 16-inch pipeline and 1.0 mile of 24-inch pipeline to connect Gateway's proposed 30-inch mainline to a Shell Offshore, Inc. (Shell) proposed sweetening plant, all in southern Mobile County, Alabama. In Docket No. CP89-471-001, Gateway proposed to construct the above 1.0 mile segment using 16-inch pipeline. Gateway also proposes to relocate, construct and operate 0.14 mile of 20-inch pipeline to connect Gateway's 16 and 24-inch pipelines above to Jubilee Pipeline Company's proposed processing plant, also in southern Mobile County, Alabama. Gateway states that the estimated cost to construct this new lateral is $542,600, which would be financed with cash on hand.

Comment date: November 20, 1990, in accordance with Standard Paragraph F at the end of this notice.

4. Williston Basin Interstate Pipeline Co.

[Docket No. CP91-243-000]

October 30, 1990.

Take notice that on October 24, 1990, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP90-243-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas on behalf of Western Gas Processors, Ltd. (WGP), a producer of natural gas, under Williston Basin's blanket certificate issued in Docket No. CP89-1118-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully detailed in the application which is on file with the Commission and open to public inspection.

Williston Basin proposes to transport, on an interruptible basis, up to 55,000 dt equivalent of natural gas on a peak day, 15,000 dt equivalent on an average day, and 20,075,000 dt equivalent on an annual basis for WGP. Williston Basin states that it would perform the transportation service for WGP under Williston Basin's Rate Schedule IT-1. Panhandle indicates that the receipt and delivery points would all be located in Park County, Wyoming. It is explained that the service commenced September 26, 1990, under the self-implementing authorization of § 284.223 of the Commission's Regulations, as reported in Docket No. ST91-35.

Comment date: December 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Co.

[Docket No. CP91-209-000]

October 30, 1990.

Take notice that on October 22, 1990, Northern Natural Gas Company, Division of Enron Corp., (Northern), 1400 Smith Street, Houston, Texas 77002 filed in Docket No. CP91-209-000 a request, pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authority to abandon and remove twenty-three (23) small volume measuring stations in the States of Minnesota, Iwoa, South Dakota, Kansas and Nebraska, under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that it has been advised by Peoples Natural Gas Company, Division of Utilicorp United Inc. (Peoples), a local distribution customer, that twenty-three (23) of Northern's small volume measuring station customers no longer desire natural gas service and have consented, in writing, to the removal of their meters. Northern explains that Peoples

bills it for gas service provided to these end-use customers on Northern's behalf. Northern estimates that the net cost of removing the facilities would be minimal, as their salvage value is expected to substantially offset the cost of removal. Lastly, Northern asserts that the appropriate State Commissions are being directly notified of the proposed abandonment by copy of its application.

Comment date: December 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. Columbia Gas Transmission Corp. and Texas Eastern Gas Transmission Corp.

[Docket No. CP91-199-000 et al.]

October 30, 1990.

Take notice that on October 19, 1990, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314 [2] and Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77010 (Applicants), filed prior notice requests with the Commission in the above-referenced dockets pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas on behalf of various shippers under their respective blanket certificates issued in Docket Nos. CP86-240-000 and CP88-136-000, pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.[3]

Information applicable to each transaction, including the shipper's identity; the type of transportation service; the appropriate transportation rate schedule; the peak day, average day and annual volumes; the service initiation dates; and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicants and is summarized in the attached appendix.

Comment date: December 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] Columbia tendered its notice of request under blanket authorization for filing on October 19, 1990; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until October 25, 1990. Section 281.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contracts date, rate schedule, service type	Related docket, start up date
CP91-199-00 (10-19-90).	PSI, Inc. (Marketer)	150,000 120,000 54,750,000	OH, WV	AL, AR, CT, GA, IL, IN, KY, LA, MA, MD, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV.	8-10-90, ITS, Interruptible.	ST90-4257, 6-1-90
CP91-200-000 (10-19-90).	Cranberry Pipeline Corporation (Intrastate Pipeline Company).	100,000 100,000 36,500,000	AL, AR, IL, IN, KY, LA, OLA, MS, MO, NJ, NY, OH, PA, TN, TX, WV.	NJ, NY, OH, PA	7-2-90, IT-1, Interruptible.	ST91-244, 9-22-90
CP91-201-000 (10-19-90).	Virginia Electric & Power Company (marketer).	86,000 86,000 31,390,000	AL, AR, IL, IN, KY, LA, OLA, MS, MO, NJ, NY, OH, PA, TN, TX, WV.	NJ, NY, OH, PA	8-8-90, IT-1, Interruptible.	ST91-245, 9-28-90
CP91-205-000 (10-19-90).	Harbert Oil & Gas Corporation (Producer).	60,000 60,000 21,900,000	AL, AR, IL, IN, KY, LA, OLA, MS, MO, NJ, NY, OH, PA, TN, TX, WV.	NJ, NY, OH, PA	5-17-90, IT-1, Interruptible.	ST90-5305, 9-1-90
CP91-206-000 (10-19-90).	Libra Marketing Company (Marketer).	100,000 100,000 36,500,000	AL, AR, IL, IN, KY, LA, OLA, MS, MO, NJ, NY, OH, PA, TN, TX, WV.	Mexico, TX	8-3-90, IT-1, Interruptible.	ST91-78, 9-15-90

[1] Offshore Louisiana is shown as OLA.

7. Natural Gas Pipeline Co. of America

[Docket Nos. CP91-210-000 and CP91-211-000]

October 30, 1990.

Take notice that on October 22, 1990, Natural Gas Pipeline of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[4]

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under § 284.223 of the Commission's Regulations is provided in the attached appendix.

Comment date: December 14, 1990, in accordance with Standard Paragraph G at the end of the this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day, [1] average, annual	Points of		Start up date, rate schedule	Related dockets [2]
				Receipt	Delivery		
CP91-210-000 (10-22-90)	Natural Gas Pipeline Co. of America.	Longhorn Natural Gas Company, Inc.	10,000 6,000 2,190,000	Offshore LA & TX, AR, CO, IA, IL, KS, MO, NE, NM, OK, LA, TX.	Offshore TX & LA IA, OK, CO, NM, IL, LA, TX.	8-17-90, ITS	CP86-582-000, ST90-4757-000
CP91-211-000 (10-22-90)	Natural Gas Pipeline Co of America.	Total Minatome Corporation.	75,000 25,000 9,125,000	Offshore TX	Offshore TX	8-25-90, ITS	CP86-582-000, ST90-4962-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The ST docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

8. U-T Offshore System

[Docket No. CP91-246-000]

October 30, 1990.

Take notice that on October 25, 1990, U-T Offshore System (U-TOS), 2800 Post Oak Boulevard, P.O. Box 1396, Houston, Texas 77251, filed a request with the Commission in Docket No. CP91-246-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to provide an interruptible natural gas transportation service for Spindletop Gas Distribution System (Spindletop Gas) under U-TOS' blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the NGA, corresponding to the rates, terms, and conditions filed in Docket No. RP89-99-000, all as more fully set forth in the request which is open to public inspection.

U-TOS states that it proposes an interruptible natural gas transportation service of 100,000 Mcf on peak and average days and 36,500,000 Mcf annually for Spindletop Gas. U-TOS states that it would receive the gas for Spindletop Gas' account at two receipt points in West Cameron Blocks 116 and 167, offshore Louisiana, and deliver the gas at the Johnson's Bayou Plant, Cameron Parish, Louisiana. U-TOS commenced its transportation service for Spindletop Gas on August 23, 1990, under its FERC Rate Schedule IT, as reported in Docket No. ST90-4810 pursuant to § 284.223(a) of the Regulations.

Comment date: December 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

9. Colorado Interstate Gas Co.

[Docket No. CP91-265-000]

November 1, 1990.

Take notice that on October 30, 1990, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP91-265-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Mesa Operating Limited Partnership, a producer, under the blanket certificate issued in Docket No. CP86-589, *et al.* pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG states that, pursuant to an agreement dated July 15, 1990, under its Rate Schedule TI-1, it proposes to transport up to 10,000 Mcf per day of natural gas. CIG indicates that the gas would be transported from receipt points located in Kansas, and Oklahoma, and would be redelivered at delivery points located in Kansas. CIG further indicates that it would transport 10,000 Mcf on an average day and 3,650,000 Mcf annually.

CIG advises that service under § 284.223(a) commenced August 1, 1990, as reported in Docket No. ST90-4347-000.

Comment date: December 17, 1990, in accordance with Standard Paragraph G at the end of the notice.

10. Williams Natural Gas Co.

[Docket No. CP91-244-000]

November 1, 1990.

Take notice that on October 24, 1990, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 7401, filed in Docket No. CP91-244-000, a request pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act, to abandon by reclaimation measuring, regulating and appurtenant facilities installed to serve the William Stockstill (Stockstill) irrigation operation in Gray County, Texas, pursuant to Williams's blanket authorization issued in Docket No. CP82-479-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states the customer, William D. Stockstill, has requested WNG reclaim its facilities and estimates the reclaimation cost to be $490 with no salvage value.

Comment date: December 17, 1990, in accordance with Standard Paragraph G at the end of the notice.

11. Panhandle Eastern Pipe Line Co.

[Docket No. CP91-231-000]

November 1, 1990.

Take notice that on October 23, 1990, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston Texas 77251-1642, filed in Docket No. CP91-231-000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a storage service provided to Citizens Gas and Coke (Citizens), a jurisdictional sales customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle is currently providing certain long-term storage and transportation service to Citizens under Panhandle's Rate Schedule TS-2 and TS-6. However, Citizens, in its letter dated December 8, 1989, requested cancellation of storage arrangements, effective March 30, 1991.

Comment date: November 23, 1990, in accordance with Standard Paragraph F at the end of this notice.

12. Natural Gas Pipeline Co.

[Docket No. CP91-228-000]

November 1, 1990.

Take notice that on October 23, 1990, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP91-228-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon sales service to nine (9) of its existing sales customers and increase sales service to eight (8) of its existing sales customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural states that the service reductions are pursuant to nomination procedures provided in the pending Stipulation and Agreement on Gas Inventory Demand Charges filed June 4, 1990 in Docket No. CP89-1281-000.

Natural states further that the reduction and abandonment of 96,901 MMBtu in the daily contract quantities of nine (9) of its existing DMQ-1 and G-1 sales customers and the increase of 31,013 MMBtu in the daily contract quantities of eight (8) of its existing DMQ-1 and G-1 sales customers would be effective December 1, 1990.

It is said that the pregranted authority to increase daily contract quantities to existing sales customers would be at the dates in the volumes provided in their new service agreements.

Comment date: November 23, 1990, in accordance with Standard Paragraph F at the end of this notice.

13. ANR Pipeline Co.

[Docket No. CP91-235-000]

November 1, 1990.

Take notice that on October 24, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP91-235-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas transportation service for Natural Gas

Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that pursuant to a letter dated June 30, 1990, Natural advised ANR that it wanted to termiante the transportation service which it performs under Rate Schedule X-43. This service was certificated in Docket No. CP75-26.

Comment date: November 23, 1990, in accordance with Standard Paragraph F at the end of this notice.

14. Southern Natural Gas Co.

[Docket No. CP91-245-000]

November 1, 1990.

Take notice that on October 25, 1990, Southern Natural Gas Co. (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP91-245-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Ashton Energy Company (Ashton), a marketer, under Southern's blanket certificate issued in Docket No. CP88-316-000 pursuant ot section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to transport on an interruptible basis up to 30,000 MMBtu of natural gas on a peak day, 10,000 MMBtu on an average day and 3,650,000 MMBtu on an annual basis for Ashton. Southern states that it would perform the transportation service for Ashton under Southern's Rate Schedule IT. Southern indicates that it would transport the gas from various receipt points in offshore Texas, offshore Louisiana, Texas, Louisiana, Mississippi and Alabama to various delivery points in Georgia and South Carolina.

It is explained that the service commenced September 12, 1990, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-5330. Southern indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 17, 1990, in accordance with Standard Paragraph G at the end of this notice.

15. El Paso Natural Gas Co. and Texas Gas Transmission Corp.

[Docket Nos. CP91-260-000 et al.]

November 1, 1990.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: December 17, 1990, in accordance with Standard Paragraph G at the end of this notice.

[5] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average annual	Points of		Start up date rate schedule	Related dockets [2]
				Receipt	Delivery		
CP91-260-000, 10-30-90	El Paso Natural Gas Company.	Mock Resources, Inc.	154,500 77,250 28,196,250	Any point on system.	CO, NM, TX, OK	9-22-90, T-1	ST91-425-000
CP91-261-000, 10-30-90	Texas Gas Transmission Corporation.	PSI Gas Marketing, Inc.	21,000 21,000 7,665,000	Off TX	Off TX	9-15-90, IT	ST91-434-000
CP91-262-000, 10-30-90	Texas Gas Transmission Corporation.	Bishop Pipeline Corporation.	100,000 50,000 36,500,000	On LA, Off LA, On TX, Off TX, KY, AR, OH.	KY, IN, IL	9-15-90, IT	ST91-436-000
CP91-263-000, 10-30-90	Texas Gas Transmission Corporation.	PSI Gas Marketing, Inc.	50,000 25,000 9,125,000	Off TX	Off LA	9-15-90, IT	ST91-432-000
CP91-264-000, 10-30-90	Texas Gas Transmission Corporation.	PSI Gas Marketing, Inc.	100,000 50,000 36,500,000	Off TX	Off TX	9-15-90, IT	ST91-433-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a part 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 interevene or notice of intervention and pursuant to § 157.250 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. 90-26508 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-22-000]

Algonquin Gas Transmission Co.; Informal Settlement Conference

November 2, 1990.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, November 13, 1990, at 1:30 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washingotn, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger (202) 208-2215 or David R. Cain (202) 208-0917.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26509 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on October 31, 1990, pursuant to section 4 of the Natural Gas Act and Section 12 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed the following revised tariff sheets, all to First Revised Volume No. 1 of CNG's FERC Gas Tariff:

3rd Revised First Revised Sheet No. 31
Alternate 3rd Revised First Revised Sheet No. 31

CNG requests that the Commission allow the proposed tariff revisions to become effective on December 1, 1990, as CNG's regular, quarterly purchased gas adjustment ("PGA") filing.

The primary filing would increase CNG's RQ and CD commodity rates by 18.17 cents per dekatherm, increase D-1 demand rates by 1.0 cent per dekatherm and decrease D-2 demand rates by 1.09 cents per dekatherm from the rates currently in effect. Other rates will change correspondingly.

CNG respectively requests the Commission to accept either the primary or alternative tariff sheet, as appropriate, depending upon the Commission's disposition of CNG's outstanding filings in Docket Nos. TM91-2-22-000 and RP91-3-000, *et al.*

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wish 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. 90-26510 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-13-000]

Equitrans, Inc.; Proposed Tariff Changes

November 2, 1990.

Take notice that on October 31, 1990, Equitrans, Inc. ("Equitrans") tendered for filing, with a proposed effective date of December 1, 1990, subject to refund, the following tariff sheets for inclusion in its FERC Gas Tariff Original Volume Nos. 1 and 3:

Volume No. 1

Nineteenth Revised Sheet No. 10
Tenth Revised Sheet No. 34
Sixth Revised Sheet No. 23

Volume No. 3

Sixth Revised Sheet No. 4
Sixth Revised Sheet No. 8

Equitrans states that the purpose of its filing is to revise Equitrans' FERC Gas Tariff to the limited extent necessary to reflect in Equitrans' base rates the costs which result from receiving firm transportation service from Tennessee Gas Pipeline Company ("Tennessee"), Texas Eastern Transmission Corporation ("Texas Eastern"), and Columbia Gas Transmission Corporation ("Columbia").

The filing makes no change in the gas cost portion of Equitrans' base rates. It does reflect the cost of purchased gas and the purchased gas surcharge adjustment reflected in Equitrans' currently effective PGA tracker filing made effective on October 30, 1990 in Docket No. TQ91-1-24-000.

This filing constitutes a limited Natural Gas Act section 4(e) rate change to Equitrans' Account No. 858. Equitrans requests that this filing be consolidated with Equitrans' on-going rate proceeding in Docket No. RP90-70-000.

The rate adjustment reflects transportation of 2,420,000 dekatherms per year by Tennessee effective December 1, 1990 at a rate of $1,050,000 per year. It also reflects a rate for transportation by Texas Eastern under section 4.1 of Texas Eastern's Rate Schedule FT-1 rather than Rate Schedule 4.2, which was projected in Equitrans' filing in Docket No. RP90-70. Finally, the adjustment reflects the change in Texas Eastern's section 4.1 charges to become effective on December 1, 1990 pursuant to the

Commission's suspension order issued on June 29, 1990 in Docket No. RP90-119. Texas Eastern Transmission Corp., 51 FERC ¶61,384 (1990.) These two changes result in an increase in transmission and compression costs paid to Texas Eastern by Equitrans of $4,026,982 per year. Finally, the rate adjustment reflects an increase in the transportation rate charged by Equitrans by Columbia under Columbia's Rate Schedule X-70 effective November 1, 1990 to $6,041,000 from $5,524,000 pursuant to Columbia's most recent section 4(e) general rate increase filing in Docket No. RP90-108.

Equitrans states that copies of this filing were served on its jurisdictional customers and on interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1990 file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26511 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-13-000]

Gas Gathering Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1990.

Take notice that Gas Gathering Corporation (GGC) on October 19, 1990 tendered for filing Fourth Revised Sheet No. 4 to First Revised Volume No. 1 of its FERC Gas Tariff. The tariff sheet revises, pursuant to § 154.38(d)(6) of the Commission regulations, GGC's Annual Charge Adjustment (ACA) unit surcharge rate to $0.0022 per Mcf.

GGC proposes an effective date of October 1, 1990 or the earliest date thereafter acceptable by the Commission.

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. All such motions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 90-26512 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-2-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

November 2, 1990.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 31, 1990, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective December 1, 1990:

	Superseding
Seventy-Eighth Revised Sheet No. 3a.	Seventy-Seventh Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing of Seventy-Eighth Revised Sheet No. 3a is to reflect a $.0051 per MCF increase in its current cost of gas.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Mid Louisiana states that copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26513 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-2-25-000 and TM91-2-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

November 2, 1990.

Take notice that on October 31, 1990 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 to be effective December 1, 1990:

Fifty-First Revised Sheet No. 4
Tenth Revised Sheet No. 4.1
Tenth Revised Sheet No. 4.2
Nineteenth Revised Sheet No. 4A
Twentieth Revised Sheet No. 4A (effective January 1, 1991)
Tenth Revised Sheet No. 4A.1
Tenth Revised Sheet No. 4A.2
Seventh Revised Sheet No. 4A.3
Eighth Revised Sheet No. 4A.3 (effective January 1, 1991)
Seventh Revised Sheet No. 4A.4
Sixth Revised Sheet No. 4A.5
Second Revised Sheet No. 4A.6
First Revised Sheet No. 4A.7
Twelfth Revised Sheet No. 73

MRT states that the instant filing reflects its quarterly purchased gas cost adjustment (PGA), submitted pursuant to § 154.308 of the Commission's Regulations and paragraph 17.2 of MRT's FERC Gas Tariff, and changes in fixed take-or-pay charges incurred from pipeline suppliers. MRT states that the impact of the instant filing on its Rate Schedule CD-1 rates is a decrease of $.003 per MMBtu in the demand charge, and an increase of 14.23 cents per MMBtu in the commodity charge. The single part rate under Rate Schedule SGS-1 reflects an increase of 14.20 cents per MMBtu.

MRT is mailing a copy of the revised tariff sheets 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 November 9, 1990. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 90-26514 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-28-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 2, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 31, 1990, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No.:

Eighty-First Revised Sheet No. 3-A
Fifty-Eighth Revised Sheet No. 3-B
Fifth Revised Sheet No. 3-B.1

The proposed effective date of these revised tariff sheets is December 1, 1990.

Panhandle states that these revised tariff sheets filed herewith reflect the following adjustments respecting Panhandle's D1 and D2 demand rates: (1) An increase of $0.66 for D1 and (2) no change for D2 pursuant to section 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline suppliers' demand costs).

Panhandle states that the above-referenced tariff sheets are being filed in accordance with § 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to §§ 18.1 and 18.4 (Purchased Gas Demand Rate Adjustments by Pipeline Suppliers) of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the change in Panhandle's jurisdictional rates effective December 1, 1990.

Panhandle states that it should be noted that by Order dated June 30, 1989, issued in Docket No. RP89-185-000, and reaffirmed in Docket No. RP89-185-001, dated September 26, 1990, the Commission accepted for filing section 25 (Seasonal Sales Program) of Panhandle's FERC Gas Tariff, Original Volume No. 1. Pursuant to § 2531 thereof, §§ 18.2, 18.3, 18.5, 18.6, 18.7 and 18.8 are suspended until re-established in accordance with § 25.32. Accordingly, Panhandle is reflecting as a current adjustment only the changes in its D1 and D2 demand rates mentioned above.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1990. Protests will be considerd 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. 90-26515 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-55-000 and TM91-2-55-000]

Questar Pipeline Co.; Rate Change

November 2, 1990.

Take notice that on October 31, 1990, Questar Pipeline Company tendered for filing and acceptance certain revised tariff sheets to its FERC Gas Tariff as follows:

Tariff Sheet and Proposed Effective Date

Original Volume No. 1

Tenth Revised Sheet No. 12, December 1, 1990
Eleventh Revised Sheet No. 12, January 1, 1991

Original Volume No. 1-A

Fourth Revised Sheet No. 5, January 1, 1991

Original Volume No. 1-A

Fifth Revised Sheet No. 8, January 1, 1991

Questar Pipeline states that the purpose of this filing is to adjust the purchased gas cost under Questar Pipeline's sale-for-resale Rate Schedule CD-1 effective December 1, 1990, and implement the Gas Research Institute's (GRI) adjustment of $0.0142/Dth authorized in Docket No. RP90-120-000 to be effective January 1, 1991.

Questar Pipeline further states that the Tenth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.47958/Dth which is $0.24047 lower than the currently effective rate of $2.72005/Dth. The demand base cost of purchased gas remained unchanged at $0.00541/Dth.

Questar Pipeline states that it has provided a copy of the filing to Mountain Fuel Supply Company and interested state public service commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20002, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protest should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26516 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 2, 1990.

Take notice that Transwestern Pipeline Company ("Transwestern") on October 31, 1990, tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective December 1, 1990

80th Revised Sheet No. 5
3rd Revised No. 5E
2nd Revised No. 5E(i)
45th Revised Sheet No. 6
12th Revised Sheet No. 37

Without prejudice to supplemental filings that may be permitted by any final order in the Order No. 500 proceedings, the above-referenced tariff sheets are being filed pursuant to section 25.6 of the General Terms and Conditions of Transwestern's FERC Tariff. Pursuant thereto, Transwestern must file on or before November 1, 1989 and annually thereafter to adjust the TCR Surcharge to account for actual versus estimated interest amounts and to estimate interest expense for the upcoming annual period. Therefore, the instant filing is the second annual filing and is being filed solely to (1) true-up for the actual quarterly interest rates published by the Commission from December 1, 1989 through November 30, 1990 and (2) estimate the interest expense for the upcoming annual period

of December 1, 1990 through November 30, 1991.

Transwestern herein proposes to revise the TCR Surcharge Rate as a result of the interest rate changes to be $0.1530/dth, which represents a decrease of $0.0177/dth from the last currently effective TCR Surcharge Rate of $0.1707/dth. Such decrease is due to the declining unamortized principle amounts and the reduced interest rates applicable to the amortization period of December 1, 1989 through November 30, 1990. The revised TCR Surcharge Rate is based on the adjusted balances ending November 30, 1990 for TCR Nos. 1, 2, 3, and 4 (Docket Nos. RP88-198, RP89-59, RP89-130, and RP90-25, respectively). Estimated interest expense for the upcoming period (December 1, 1990 through November 30, 1991) is based upon the currently effective Commission fourth quarter interest rate of 10.0%.

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 N. Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become 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. 90-26517 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-30-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1990.

Take notice that Trunkline Gas Company (Trunkline) on October 31, 1990, tenderd for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Eightieth Revised Sheet No. 3-A

The proposed effective date of this revised tariff sheet is December 1, 1990.

Trunkline states that the revised tariff sheet filed herewith reflects a commodity rate increase of 0.01¢ per Dt in the projected purchased gas cost component.

Trunkline states that the above-referenced tariff sheet is being filed in accordance with § 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to section 18 (Purchase Gas Adjustment Clause) of Trunkline's FERC Gas Tariff, Original Volume No. 1 to reflect the change in Trunkline's jurisdictional rates effective December 1, 1990.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 90-26518 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-56-000 and TM91-2-56-000]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

November 2, 1990.

Take notice that Valero Interstate Transmission Company ("Vitco"), on October 31, 1990 tendered for filing the following tariff sheets as required by Orders 483 and 483-A and the provisions contained in Exhibits (E) and (F) in Docket No. RP90-187-000 containing changes in Purchased Gas Cost Rates, Take-or-Pay Commodity Rate Surcharge and Account 191—Settlement Commodity Rate Surcharge pursuant to such provisions:

FERC Gas Tariff, Original Volume No. 1

22nd Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2

27th Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483-A. The change in rates to Rates Schedule S-3 includes an increase in purchased gas cost of $0.9781 per MMBtu above the purchased gas cost set out in the filing in Docket No. RP90-187.

The Take-or-Pay Commodity Rate Schedule is $0.4205 per MMBtu which represents an increase from the rate filed in docket No. RP90-187-000. The Account 191-Settlement Commodity Rate Surcharge is $(0.1845) per MMBtu which represents a decrease from the rate filed in Docket No. RP90-187-000.

The proposed effective date of the above filing is December 1, 1990. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by December 1, 1990.

If the Commission has not issued an order approving the settlement in Docket No. RP90-187 by December 1, 1990 Vitco requests that the following tariff sheet be made effective December 1, 1990:

Alternate 27th Revised Sheet No. 6

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests, should be filed on or before November 9, 1990. Protests should will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of 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. 90-26519 Filed 11-8-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-89-NG]

IGI Resources, Inc.; Application for Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed by IG Resources, Inc. (IGI) on

October 11, 1990, as supplemented October 31, 1990, for authorization to import natural gas from Canada over a period of ten years. IGI proposes to import up to 5,000 MMBtu of gas per day from November 1, 1992, through October 31, 1992; up to 10,000 MMBtu per day from November 1, 1992, thorugh October 31, 1995, and up to 15,000 MMBtu per day from November 1, 1995 through October 31, 2000 (one MMBtu equates to approximately one Mcf). The volumes imported would enter the United States near Sumas, Washington and be transported from that point through the existing pipeline facilities of Northwest Pipeline corporation (Northwest). No new construction or new pipeline facilities would be involved.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., December 10, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION 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) 586-4809

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW. Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: IGI, an Idaho corporation having its principal office in Boise, Idaho, is a gas marketer supplying industrial end-users and local distribution companies (LDC's) in the western U.S., primarily in the Pacific Northwest. The LDC's include Intermountain Gas Company (Intermountain) in Idaho and CP National Corporation in Oregon. IGI is a wholly owned subsidiary of Intermountain Gas Industries, a holding company which also owns Intermountain. The imported volumes would be purchased from Mobil Oil Canada (Mobil).

Under the gas sale contract between IGI and Mobil accompanying the application, sales would be arranged on a monthly basis when IGI notifies Mobil of the amount it desires to purchase from zero up to the established maximum daily delivery quantities. During each month, IGI has the right to change its designated purchase quantity three times upon three days written notice to Mobil. The contract term extends to October 31, 2000, with provision for automatic extension for subsequent periods of two years.

The price that IGI would pay Mobil for the gas would be calculated monthly and is comprised of a demand charge, a commodity charge, and a gas reservation fee.

Demand charge. The demand charge covers the toll charges of Westcoast Energy Inc. for gathering, processing and transporting the gas from the producing fields in the Province of British Columbia to the U.S./Canada border.

Commodity charge. The commodity charge is established initially as the weighted sum of the following four factors:

(1) 25 percent of the B.C. Gas Inc. (a British Columbia local distribution company) residential gas price at the wellhead for the prior month;

(2) 25 percent of the arithmetic average of the weekly high and low prices for Number 6 fuel oil (Bunker C) in Seattle, Washington for the delivery month;

(3) 25 percent of the price for spot market gas delivered into Northwest's system at Sumas, Washington for the prior month (subject to a summer season, April-September, adjustment under certain circumstances); and

(4) 25 percent of the price for spot market gas delivered into Northwest's system in the Rocky Mountains.

The formula for determining the commodity charge may be renegotiated annually, and the contract provides for arbitration if the parties cannot agree on a new formula. Any disputes regarding non-price provisions of the contract would also be settled through arbitration.

Reservation fee. The last element of the three-part rate, the gas reservation fee, is intended to compensate Mobil for holding dedicated reserves available for IGI. It is equal to the greater of (a) 18 percent of the commodity price applied to the deficient volumes in any month in which IGI does not take the full contract quantity or (b) nine percent of the commodity price applied to the daily contract quantity on a monthly basis.

There is no requirement for IGI to purchase a minimum quantity of gas. However, if IGI nominates volumes but they are not actually taken, it must pay the demand charge and reserveation fee on the deficiency.

Under the pricing scheme, IGI estimated that the border price for deliveries in November 1990, if deliveries had then taken place, would have been $2.49 (U.S.) per MMBtu at 100 percent load factor. IGI provided the following breakdown of the price: Demand charge of $0.64 per MMBtu, commodity charge of $1.70 per MMBtu, and reservation charge of $0.15 per MMBtu.

IGI requested that the import authorization be granted by November 1, 1990, so that there are sufficient gas supplies to meet the peak period requirements of LDC's and downstream customers, as well as industrial end-users in its marketing area during the upcoming winter heating season. If a final order could not be issued by that time, IGI requested interim authorization. Except in extraordinary or emergency circumstances, 10 CFR 590.205(a) of DOE's administrative procedures provides for a public comment period of not less than 30 days. IGI has not shown that such circumstances surround this import proposal to justify departing from our standard policy. Accordingly, a decision on the application will not be made until all responses to this notice have been received and evaluated.

The decision on IGI's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In the case of a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for the natural gas, and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is needed, competitive, and its natural gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application.

All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of IGI's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 6, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-26595 Filed 11-8-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-90-NG]

Northern Minnesota Utilities; Application for Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 19, 1990, of an application filed by Northern Minnesota Utilities (NMU) requesting blanket authorization to import from Canada up to 66.43 Bcf of natural gas, and to export and re-import up to 66.43 Bcf of this gas, over a two-year term beginning February 15, 1991, the date NMU's current blanket authorization expires. NMU requests authority to import and export and re-import the natural gas at any point on the U.S./Canadian border where existing pipeline facilities are located. No new construction would be involved.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, request for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., December 10, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9393

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-32, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-6667

SUPPLEMENTARY INFORMATION: NMU, with its principal place of business in Cloquet, Minnesota, is a division of Utilicorp United, Inc., a Delaware corporation. NMU is currently authorized by DOE/ERA Opinion and Order 245 (1 ERA 70,780), issued June 21, 1988, in ERA Docket No. 88-02-NG, to import from Canada up to 66.43 Bcf of natural gas and to export and re-import up to 66.43 Bcf of this gas for a two-year term. This authorization became operational on February 14, 1989.

NMU states that the specific terms of each import and export or re-import arrangement would be freely negotiated and tailored to NMU's markets, thus making them responsive. NMU anticipates obtaining supplies from various Canadian sources on an interruptible, primarily spot purchase basis.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate in a particular case. However, since the source of the natural gas proposed to be exported involves only Canadian production and not sales of domestic gas to Canada, it is unnecessary to consider domestic need in connection with the export portion of NMU's proposal. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable,

and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto.

Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of NMU's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC November 5, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-26596 Filed 11-8-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of August 6 Through August 10, 1990

During the week of August 6 through August 10, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Natural Resources Defense Council, 8/6/90, LFA-0059

The Office of Hearings and Appeals (OHA) issued a Decision and Order which considered a Freedom of Information Act (FOIA) Appeal in which the requester had sought the release of all briefing materials that were used in presentations to Secretary Watkins during 1990 regarding the restart of plutonium processing and/or pit production activities at the Rocky Flats Plant. The Office of Military Application (OMA) had denied the request in its entirety, withholding the documents under Exemption 5 of the FOIA. Exemption 5 encompasses the deliberative process privilege, which shields from disclosure documents which were created during agency consideration of a proposed action and which were part of the decision-making process.

In its Appeal, the Natural Resource Defense Council (NRDC) requested: (1) A new search by the OMA for responsive materials based on the alleged inadequacy of the initial search; (2) the segregation and release of all non-exempt portions of responsive materials; and (3) the release of "all predecisional materials which contributed directly to Admiral Watkins' restart decision." The OHA determined that the OMA had conducted an adequate search for responsive materials. The OHA also stated that it believed that many of the withheld documents contain factual information not protected by Exemption 5 and thus should be segregated and released. Therefore, the OHA remanded the proceeding to the OMA in order for it to determine what material is factually segregable and to release that material. Finally, the OHA found that the NRDC had not shown that the withheld materials had been expressly adopted or incorporated by reference in a final opinion; thus, the deliberative portions of these materials remain shielded from disclosure by Exemption 5.

Refund Application

Albertson's Inc., 8/6/90, RF272-433; RD272-433

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Albertson's, Inc., based on its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. The applicant used the petroleum products in its vehicles and refrigeration units and determined its claim using fuel tax returns and mileage records. The applicant was an end-user of the products it claimed and was, therefore, presumed injured. A consortium of states and territories of the United States filed a Statement of Objections and Motion for Discovery with respect to the applicant. The DOE found that this filing was insufficient to rebut the presumption of injury for end-users, and the Motion for Discovery was denied. The Application for Refund was granted. The total refund amount granted is $12,291.

Atlantic Richfield Company/Michael Kimak, 8/9/90, RF304-11952

The DOE issued a Supplemental Decision and Order concerning a Decision and Order issued on July 12, 1990, to Bruce Blair's ARCO, *et al.*, in the Atlantic Richfield Company special refund proceeding. The DOE determined that the refund granted to Michael Kimak (Case No. RF304-8134) was incorrectly calculated. Accordingly, the refund previously granted was rescinded, and the correct refund was granted to the claimant

Atlantic Richfield Company/Wally's Arco, 8/6/90, RF304-11951

The DOE issued a Supplemental Order concerning a Decision and Order issued on July 24, 1990, to Gene Lobe Distributor, Inc., *et al.*, in the Atlantic Richfield Company special refund proceeding. The DOE rescinded a refund granted to Wally's ARCO (Case No. RF304-9570). The amount of the refund rescinded was $5,112.

Exxon Corporation/Hector M. Vazquez, et al., 8/8/90, RF307-9250, et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed in the Exxon Corporation special refund proceeding. Each applicant purchased directly from Exxon and was a reseller whose allocable share is less than $5,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $1,632 ($1,241 principal plus $391 interest).

Exxon Corporation/Northville Caribbean Corp., 8/10/90, RF307-8675

The DOE issued a Decision and Order concerning an Application for Refund filed in the Exxon Corporation special refund proceeding on behalf of Northville Caribbean Corp., a reseller of Exxon products whose allocable share is greater than $5,000. Instead of making an injury showing to receive its full allocable share, Northville elected to limit its claim to $5,000 or 40% of its allocable share, whichever was greater. The total refund granted in this Decision is $6,627 ($5,000 principal plus $1,627 interest).

Gulf Oil Company/J. L. Sowell, 8/6/90, RF300-228

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding. The applicant established that it was a consignee and reseller of Gulf motor gasoline and distillate during the consent order period. The applicant attempted to prove injury as to its consigned volumes of Gulf product. However, the OHA rejected the injury demonstration methodology and, instead, recalculated the applicant's injury under an acceptable methodology. The resulting refund calculated under the OHA's methodology would have been less than the refund under the 10 percent injury presumption for Gulf consignees. Under the circumstances, the applicant was granted a refund equal to 10 percent of its allocable share on its consigned gallons. The applicant was also granted a refund equal to its full allocable share on the Gulf products which it purchased and resold. The sum of the refund granted in this Decision, including accrued interest, is $2,073.

Gulf Oil Corporation/Williams Gulf Service, Cupertino's Transport, 8/7/90, RF300-10926, RF300-10937

The DOE issued a Decision and Order concerning two Applications for Refund submitted by Akin Energy, Inc., on behalf of two resellers of Gulf petroleum products in the Gulf Oil Corporation special refund proceeding. Akin Energy, Inc., submitted records to document each refund claim and provided sufficient authorization to file on behalf of both of the claimants. Each Application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $7,483.

Jamie Towers, 8/9/90, RA272-26

The DOE issued a Supplemental Order concerning an Application for Refund filed by Jamie Towers in the subpart V crude oil special refund proceeding. Jamie Towers, an apartment complex in Bronx, NY, was granted a refund of $2,485 based on the purchases of petroleum products used for heating. The refund check was sent in the care of Mr. Otis Jones. It has come to our attention that Mr. Jones is no longer the managing agent of Jamie Towers. Mr. Jones returned the refund check, requested that it be voided, and asked that a revised refund check be issued to the new agent, William R. Lucas, Inc. Accordingly, we have revised the refunds granted in *J.W. Nelson Transport, Inc., et al.*, Case Nos. RF272-56503, *et al.*

Schering Corporation, 8/10/90, RF272-8752

A pharmaceutical corporation filed an Application for Refund in the subpart V crude oil special refund proceedings. A group of states and territories filed objections to this Application, claiming that the applicant should not be eligible to receive refunds because it was not injured as a result of crude oil overcharges. The DOE rejected the states' arguments, finding that they had not submitted relevant material sufficient to overcome the presumption of injury available to end-user applicants in this proceeding. The DOE than reviewed the Application and found that the information provided therein supported the company's claim. Accordingly, the DOE granted a refund based on the end/user presumption of injury in the amount of $15,556.

Shell Oil Company/Cumberland Lake Shell, Inc, 8/9/90, RF315-2300

The DOE issued a Decision and Order granting an Application for Refund filed by Cumberland Lake Shell, Inc., in the Shell Oil Company special refund proceeding. The applicant was granted a refund under the presumption for mid-level claimants. The total refund granted in the Decision was $7,204 ($5,595 principal plus $1,609 in interest).

Shell Oil Company/Steve's Shell, et al., 8/8/90, RF315-2538, et al.

The DOE issued a Decision and Order granting 15 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the applicants purchased indirectly from Shell and was a reseller whose allocable share was less than $5,000. Each applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted in the Decision was $10,493 ($8,151 principal plus $2,342 interest).

Southwest Airline Co., 8/6/90, RF272-444, RD272-444

The DOE issued a final Decision and Order granting a refund from crude oil overcharge funds to Southwest Airlines Co. based on its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. The applicant used the petroleum products to operate a fleet of Boeing 737 type aircraft and determined its claim using reasonable estimates based upon actual purchase records for the years 1973 through 1981. The applicant was an end-user of the products it claimed and was, therefore, presumed injured. A consortium of states and territories of the United States filed a Statement of Objections and Motion for Discovery with respect to the applicant. On June 12, 1990, the DOE issued a Proposed Decision and Order in which the DOE tentatively determined that these filings were insufficient to rebut the presumption of injury for end-users. The Proposed Decision tentatively denied the Motion for Discovery and granted the Application for Refund. The DOE allowed 30 days for comments regarding the Proposed Decision to be received. No comments or objections were received regarding the Proposed Decision. As a result, Southwest's Application for Refund was granted, and the States' Motion for Discovery was denied. The total refund amount granted is $205,473.

Standard Oil Company (Indiana)/ New Hampshire, et al., 8/10/90, RM251-212, et al.

The DOE issued a Decision and Order partially approving the motion for modification filed by the State of New Hampshire in the Amoco II, Coline, National Helium, and Northeast Petroleum proceedings. The OHA granted the State's request to modify the Restitutionary program which was approved in *Northeast Petroleum Industries/New Hampshire*, 14 DOE ¶ 85,488 (1986). The State proposed a new project through which it would publish a directory of solar energy technology experts and distribute it to New Hampshire residents. The DOE found that the proposed project would bring

Restitutionary benefits to New Hampshire citizens by promoting energy conservation.

Texaco Inc./ Bill's Texaco on Broadway, 8/10/90, RF321-4267, RF321-8043

The DOE issued a Decision and Order denying duplicate Applications for Refund filed in the Texaco Inc. special refund proceeding by Bill's Texaco on Broadway. In both refund submissions, the applicant certified that it had filed or authorized the filing of only one refund Application in the Texaco proceeding. In view of the false certifications, the DOE determined that both refund Applications should be denied.

Texaco Inc./H&B Texaco Service #1 Broad Street Texaco, 8/7/90, RF321-326, RF321-891

The DOE issued a Decision and Order in the Texaco Inc. special refund proceeding denying duplicate claims filed by a single applicant under the names H&B Texaco Service #1 and Broad Street Texaco. Because both Applications were signed before issuance of the Decision and Order implementing the Texaco refund procedures, the applicant was required to recertify the submissions. The applicant filed two recertifications, both of which certified that it had filed one refund Application in the Texaco refund proceeding. In view of the false certifications, the DOE determined that both Applications should be denied.

Texaco Inc./ Nelson Petroleum Co., et al., 8/10/90, RF321-2550, et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed in the Texaco Inc. Subpart V special refund proceeding. Each applicant purchased directly from Texaco and was a reseller whose allocable share is greater than $10,000. In lieu of making a detailed injury showing to receive its full allocable share, each applicant elected to limit its claim to $10,000 or 50 percent of its allocable share, whichever is greater. The total of the refunds granted in this Decision is $116,620 ($100,000 principal plus $16,620 interest).

Texaco Inc./Tiger Texaco, et al., 8/10/90, RF321-2602, et al.

The DOE issued a Decision and Order concerning 32 Applications for Refund filed in the Texaco Inc. Subpart V special refund proceeding. Each applicant purchased directly from Texaco and was a reseller whose allocable share is less than $10,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The value of the refunds granted in this Decision, including $17,883 in accrued interest, is $125,486.

Texaco Inc./West End Texaco #1, West End Texaco #2, 8/8/90, RF321-278, RF321-279, RF321-5405, RF321-5406

The DOE issued a Decision and Order in the Texaco Inc. Subpart V special refund proceeding denying duplicate refund claims filed on behalf of West End Texaco #1 and #2. In each pair of duplicate filings, the applicant certified that it had only filed a single refund Application on behalf of each outlet in the Texaco proceeding. In view of these false certifications, the DOE determined that the Applications should be denied.

Texaco Inc./Wristen Texaco, 8/10/90, RF321-5123, RF321-5947

The DOE issued a Decision and Order denying duplicate Applications for Refund filed in the Texaco Inc. special refund proceeding by Wristen Texaco. The Applicant filed two refund Applications for the same Texaco purchases. In both Applications, the applicant certified that it had filed or authorized the filing of only one refund Application in the Texaco proceeding. In view of the false certification, the DOE determined that both refund Applications should be denied.

Utility Propane, 8/10/90, RF272-32833

The DOE issued a Decision and Order denying an Application for Refund filed by Utility Propane in the subpart V crude oil special refund proceeding. Utility Propane was a retailer of propane and fuel oil during the crude oil control period. The DOE determined that because the firm did not demonstrate that it was injured by the crude oil overcharges, it was ineligible for a crude oil refund.

Refund Applications

The Office of Hearings and Appeals granted refunds to refund applicants in the following Decisions and Orders:

Name	Case No.	Date
Alaska Power and Telephone Co., *et al.*	RF272-62934	8/7/90
Arctic Utilities, *et al*	RF272-74008	8/6/90
Atlantic Richfield Co./ James Brown, *et al.*	RF304-510	8/8/90
Atlantic Richfield Co./ Jim's Arco, *et al.*	RF304-9600	8/9/90
Atlantic Richfield Co./ Lott's Service Inc., *et al.*	RF304-2518	8/9/90
County of Atlantic, *et al.*	RF272-70015	8/6/90
Dairy Leasing Services, Inc., *et al.*	RF272-75501	8/6/90
Exxon Corp./C-R Auto Service, Inc., *et al.*	RF307-7799	8/8/90
Exxon Corp./Ikard & Ward, Inc.	RF307-5750	8/9/90
Ikard & Griffin, Inc	RF307-5751	
Lampton-Love, Inc	RF307-5796	
Lampton-Love Butane Co.	RF307-5977	
Exxon Corp./Ken's Minit Markets, Inc. #2, *et al.*	RF307-8739	8/6/90
Exxon Corp./Navajo Tribal Utility Authority, *et al.*	RF307-6469	8/9/90
Exxon Corp./ Woodbridge Exxon, *et al.*	RF307-1929	8/9/90
Farmers Union Oil Co., *et al.*	RF272-64254	8/7/90
Greenville Transit Authority, *et al.*	RF272-76003	8/6/90
Gulf Oil Corp./ Precision Auto Body, *et al.*	RF300-11001	8/7/90
Robert L. Collins, *et al.*	RF272-73503	8/6/90
Shell Oil Co./B&L Oil Company, Inc., *et al.*	RF315-473	8/9/90
Texaco Inc./New Orleans East Texaco, *et al.*	RF321-405	8/7/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Enco Truck Stop	RF307-8269
Herbert A. Smit	RF315-4340
Kern Oil & Refining Company and Larry D. Delpit.	KRO-0520
Kingsport Fuels, Inc	RF315-3760
Lenora Mercantile Association	RF272-70244
Lopilato & Chioccariello	RF315-9904
Seven-Up Royal Crown Bottling Co..	RF272-71792
Tilcon Massachusetts, Inc	RF272-9185
Trevis Berry	RF272-70305
United Asbury, Inc	RF307-9481

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 6, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-26598 Filed 11-8-90; 8:45 am]

BILLING CODE 6450-01-M

Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for the disbursement of $4,351,589.43, plus accrued interest, obtained by the DOE under the terms of a settlement agreement entered into with United Refining Company and United Refining Company of Pennsylvania. There are a number of subsidiaries of United Refining Company and United Refining Company of Pennsylvania that are covered by this proceeding. These subsidiaries are listed in the Decision and Order. The OHA has determined that the funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATES AND ADDRESSES: Applications for Refund submitted for a portion of the settlement funds must be filed in duplicate, postmarked no later than October 31, 1991. Applications should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All Applications for Refund should display a reference to case number KEF-0132.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $4,351,589.43 that has been remitted by United Refining Company and United Refining Company of Pennsylvania to the DOE to settle possible pricing violations with respect to sales of certain refined petroleum products in specified months. The settlement also covers a number of subsidiaries of United Refining Company and United Refining Company of Pennsylvania. These subsidiaries and the specific requirements for making a claim are set forth in the decision and order. The DOE is currently holding the funds in an interest bearing escrow account pending distribution.

Applications for refund should be postmarked no later than October 31, 1991 to meet the deadline. All Applications for Refund will be available for public inspection between the hours of 1 p.m. through 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: October 26, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Firm: United Refining Company, United Refining Company of Pennsylvania.

Date of Filing: April 27, 1989.

Case Number: KEF-0132.

October 26, 1990.

On April 27, 1989, the Economic Regulatory Administration (ERA) filed a Petition with the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings between United Refining Company, United Refining Company of Pennsylvania (hereinafter referred to collectively as United) and the DOE. 10 CFR part 205, subpart V. A number of subsidiaries and affiliated firms are included in the definition of United for purposes of this proceeding. Refer to footnotes 2 and 3 for a list of these covered entities. On November 14, 1989, the OHA issued a Proposed Decision and Order (PD&O) that tentatively set forth procedures for disbursement of the settlement funds. 54 FR 48148 (November 21, 1989). We established a 30-day period for the submission of comments regarding the proposed procedures. We received one comment from Bassman, Mitchell & Alfano, Chartered for the Petroleum Marketers of America and a dozen individual marketers of United Refining products. The present Decision will address this comment and will set forth final procedures for the distribution of the United settlement funds.

I. Background

United was a "refiner", as that term is defined in 10 CFR 212.31. United was therefore subject to the price regulations set forth in 10 CFR 212.82, *et seq.* During the period August 19, 1973 through January 27, 1981, United Was a Pennsylvania Corporation, which refined and sold gasoline, distillates and other refined petroleum products.[1] The ERA conducted an audit of United's compliance with the Mandatory Petroleum Price Regulations contained in 6 CFR 150, subpart L and 10 CFR part 212 during the period August 1973 through December 1974 (the audit period). As a result of this audit, the ERA issued a Proposed Remedial Order (PRO) to United Refining, Inc., United Refining Company and United Refining Company of Pennsylvania on August 3, 1984.[2] The ERA alleged that certain of United's pricing practices were in violation of 6 CFR 150.356 and 10 CFR 212.82, 212.83, and 212.126(b). The ERA calculated that these alleged violations resulted in overcharges in the amount of $29,070,251, which includes interest through September 16, 1983, in sales of United's [3] gasoline, distillates and

[1] Gasoline accounted for most of United's sales revenues. Other products sold by United include kerosene, diesel fuel, home heating oils, residual fuel oil, paving and roofing asphalt and to a lesser degree, liquefied petroleum gas.

[2] During the audit and overcharge period, United Refining Company was a Pennsylvania corporation engaged in the refining and marketing of petroleum products. Coral Energy, Inc., a Pennsylvania corporation and wholly-owned subsidiary of the House, Texas based Coral Petroleum, Inc., purchased United Refining Company on February 26, 1981. United Refining Company therefore became a wholly-owned subsidiary of Coral Energy, Inc.

The refinery assets of United Refining Company were distributed to Coral Energy, Inc., in August and September 1981, as part of a partial liquidation and reorganization. In connection with this reorganization, Coral Energy, Inc. changed its name to United Refining Company stayed with the original United Refining Company under a new name, United Refining Company of Pennsylvania. United Refining Company of Pennsylvania remained a wholly-owned subsidiary of United Refining Company (formerly Coral Energy, Inc.). The ultimate parent company, Coral Petroleum, Inc., transferred all of its stock in the new United Refining Company (formerly Coral Energy, Inc.) to a wholly-owned Delaware corporation created in July 1981. This Delaware corporation became known as United Refining, Inc. On October 6, 1981.

The DOE believes that United Refining, Inc. is a holding company that owns all of the stock of the United Refining Company, a refiner of petroleum products. United Refining Company, in turn, owns all of the stock of United Petroleum Company of Pennsylvania, a marketer of petroleum products. United Refining, Inc. was not named as a party to the Settlement Agreement.

[3] During the violation period, United had a number of subsidiaries. These subsidiaries include: Beaver Gasoline Company; Kiantone Pipeline Corporation; Trans Penn Oil Company; United Oil Manufacturing Company; PPC, Inc.; Minute Man Service, Inc.; Kwik-Fill Corporation; Skat Oil Company; Six-Ninety Service Center, Inc. (became part of United some time after March 1, 1974); Osceola Refining Company (Osceola) (acquired by United on December 31, 1973); Ogar Pipe Line Company (wholly-owned by Osceola); Super Test Petroleum, Inc. (Super Test) (wholly-owned) by Osceola); Bell Oil Company (wholly-owned by Super Test). During the period 1973 through 1970 United and its subsidiaries marketed their

Continued

general refinery products during specified months between November 1973 through April 1976. On September 16, 1983, United Refining Company and United Refining Company of Pennsylvania filed a petition for reorganization under chapter 11 in The United States Bankruptcy Court for the Southern District of Texas.

In order to settle any potential civil liability for the alleged violations and overcharges referred to in the August 3, 1984 PRO, United and the DOE executed a Settlement Agreement on January 13, 1988.[4] The Settlement Agreement settles the liability of United Refining Company and United Refining Company of Pennsylvania for the violations specified in the PRO described above.[5] *See* Settlement Agreement, pp. 1–2, 5 at ¶ 5.

Pursuant to the Settlement Agreement, United issued a promissory note in the amount of $3,459,264.01, plus interest, to the DOE. On March 7, 1989, United prepaid the promissory note. The DOE received a total of $4,351,589.43. The Settlement Agreement funds have been placed in an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE. This Decision and Order sets forth the distribution by the DOE. This Decision and Order sets forth the OHA's plan for distributing these funds to qualified purchasers of United's gasoline, distillates and general refinery products.

II. Analysis of Comment

The only comment received in response to the PD&O was submitted by the law firm of Bassman, Mitchell & Alfano, Chartered (Bassman) for the Petroleum Marketers Association of America and a dozen individual marketers of United products. Bassman's comment concerns only the merits of applying a 40 percent mid-level presumption of injury in the present proceeding. Bassman notes that OHA policy has been evolving toward the application of a mid-level presumption of injury in most cases. We agree that the OHA has been moving toward such a standard. In a number of recent small proceedings, the OHA has stated that a 40 percent mid-level presumption is generally sound and reflects our relief that larger claimants were likely to have experienced some injury as a result of the alleged violations. *West Coast Oil Co.*, 20 DOE ¶ 85,583 at 89,337 (1990); *see also Fletcher Oil & Refining Company, Inc.*, 20 DOE ¶ 85,513 at 89,172 (1990). The OHA has no reason to believe that United was not typical in its pricing practices. The use of a mid-level presumption of injury serves dual purposes. It allows larger claimants to receive some restitution for the loss that they likely suffered without incurring inordinate expense in compiling a claim. It also ensures that refund claims are evaluated by the OHA in the most efficient manner possible. Accordingly, we believe that it is appropriate to apply a 40 percent mid-level presumption in the present proceeding. The specific procedures that a claimant must follow for a mid-level refund will be discussed below.

III. Refund Procedures

A. *Eligibility for refunds.* The settlement amount of $4,351,589.43, plus accrued interest, will be available for distribution to purchasers of United gasoline, distillates [6] and general refinery products [7] who can show that they were injured because of purchases made from United during specific months during the period November 1973 through April 1976.[8] The months and product types that are covered by this proceeding are listed in the Appendix attached to this Decision and Order. From our experience with subpart V refund proceedings, we believe that potential claimants will fall into the following categories: (1) End-users; (2) regulated non-petroleum industry entities such as public utilities or cooperatives; and (3) refiners, resellers and retailers. As in many prior special refund proceedings, we are adopting certain presumptions that will permit claimants to participate in the refund process without incurring inordinate expense and will enable the OHA to consider refund applications in the most efficient manner possible. See 10 CFR 205.282(e), subpart V; see also *American Pacific International*, 14 DOE ¶ 85,158 (1986) (*API*).

B. *Calculation of refund amount.* We are adopting a volumetric method to apportion the United escrow account. We will drive the volumetric figure by dividing the $4,351,589.43 received from United by the total volume of covered products sold by the firm during the months listed in the Appendix. In the PD&O we put forth a volumetric refund amount of $.0084 per gallon, exclusive of interest, based upon the OHA's estimates of the total volume of covered products sold by United during the months in question.[9] However, pursuant to the OHA's request, United has provided us with a volume figure derived from its records. The OHA believes that United's own figures are a more accurate reflection of its sales of covered products during the months in question. Accordingly, the OHA will derive the volumetric based upon United's records. The revised volumetric for this proceeding is therefore $.012, exclusive of interest.[10]

The volumetric method is based upon the presumption that the alleged overcharges were spread equally over

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petroleum products through between 599 to 715 retail outlets. The outlets were either owned by United, held under long-term leases or supplied under contract. These outlets are known to have operated under a number of different brand names in regions of one or more of the following states: Delaware, Michigan; New York; Ohio; and Pennsylvania.

[4] The United States Bankruptcy Court for the Southern District of Texas approved the Settlement Agreement on January 22, 1988.

[5] The Settlement Agreement also involved Kiantone Pipeline Corporation (Kiantone), a subsidiary of United that was also in chapter 11 bankruptcy. However, Kiantone was not a named party to the Proposed Remedial Order (PRO) that prompted the Settlement Agreement. The Settlement Agreement specifically states that it was entered into "for the express purpose of settling the Proof of Claim filed by the DOE against the bankruptcy estates of United [United Refining Company] and United-Pennsylvania [United Refining Company of Pennsylvania], by the DOE's covenanting not to sue United or United-Pennsylvania regarding certain alleged violations and transactions referred to by the DOE Proof of Claim and specified in a Proposed Remedial Order issued in case number 340S00445 by the DOE to United on August 3, 1984." Settlement Agreement, pp. 1–2. Kiantone was a wholly-owned subsidiary of United. The OHA believes that the PRO covered sales made in certain months by United and its subsidiaries. Accordingly, any company that was a subsidiary of United and sold covered products during the months specified in the PRO is included in the definition of United for purposes of this proceeding. See Footnotes 2 & 3. See also section III. A.

[6] Distillates for the purposes of this proceeding shall mean No. 2 oils. No. 2 oils are defined as No. 2 heating oil and No. 2–D diesel fuel. 10 CFR 212.31.

[7] For purposes of this proceeding, general refinery products are defined as all covered products other than No. 2 oils, gasoline, and crude oil. 10 CFR 212.31.

[8] Applicants are only eligible to receive refunds based upon covered products purchased during the period in which each product was subject to federal price controls. Therefore, an applicant will not be eligible to receive a refund based upon paving and roofing asphalt purchased after March 31, 1974 because these products were decontrolled on April 1, 1974. 39 FR 12214 (April 3, 1974).

[9] To compute this figure, we estimated that United sold a total of 517,298,583 gallons of covered products during the months listed in the appendix. This figure was obtained from FEO–96 data resubmitted to the DOE by United on May 31, 1979 and annual reports that the OHA located in the ERA's file of the United enforcement proceeding.

[10] The revised volumetric was derived by dividing the $4,351,589.43 settlement fund by the 360,379,391 gallons of covered products reported by United. United reports that it sold the following product totals: (1) Gasoline—209,755,826 gallons from November 1973 through April 1974. (2) Distillates—56,939,223 from November 1973 through February 1974; 11,319,024 gallons in February 1976; 11,653,671 gallons in April 1976. (3) General Refinery Products—27,070,836 from November 1973 through March 1974; 29,207,247 gallons from September through December 1974; 4,295,383 gallons in February 1975; 4,913,191 gallons in October 1975; 5,224,990 gallons in January 1976

all gallons of covered products sold by United during the months when the alleged overcharges occurred.[11] Therefore, under the volumetric approach, an eligible claimant will receive a refund equal to the number of gallons of covered products that it purchased from United during the months when the alleged overcharges occurred on those products, multiplied by the per gallon volumetric amount for this proceeding. In addition, each successful claimant will receive a pro rata portion of the interest that has accrued on the United funds since the date of remittance.

As in previous cases, we will establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims of $15 or less outweighs the benefits of restitution in those situations. *E.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982) (*Uban*).

1. *Showing of injury.* Each claimant will be required to document its purchases of United's covered products during the months that the alleged overcharges occurred. In addition, each applicant will be required to demonstrate that it was injured by the alleged overcharges. In order to demonstrate that it did not subsequently raise its prices and thereby recover the increased costs associated with United's alleged overcharges, a claimant will have to show that it maintained banks of unrecovered product costs. *E.g., Seminole Refining Inc.*, 12 DOE ¶ 85,188 (1985). We realize that some applicants may be unable to provide actual cost bank records for the period covered by this proceeding. We are therefore willing to accept information establishing with reasonable likelihood that a claimant had banks. *E.g., Tenneco Oil Co./ Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982). In addition, a claimant must show that market conditions would not permit it to pass through those increased costs to its customers. *E.g., API*, 14 DOE at 88,295. Such a showing might be made through a demonstration of a competitive disadvantage, lowered profit margin, decreased market share or depressed sales volumes during the period of purchases of United covered products. *E.g., Gulf Oil Corporation*, 16 DOE ¶ 85,381 and 88,740 (1987).[12]

2. *Small claims presumption.* We are adopting a presumption, as we have in have in many cases, that refiners, resellers and retailers seeking refunds of $5,000 or less were injured by United's pricing practices. *E.g., API*, 14 DOE at 88,295. We recognize that the cost to such applicants of gathering evidence of injury to support a refund claim of $5,000 or less could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be denied an opportunity to obtain a refund. For example, some firms may have limited accounting and data-retrieval capabilities, and may therefore be unable to produce the records necessary to prove either the existence of banks of unrecovered necessary to prove either the existence of banks of unrecovered costs, or that they did not pass the alleged overcharges on to their own customers. We also seek to insure that the cost to the applicant and to the government of compiling and analyzing information sufficient to establish a claim does not exceed the amount of the refund. Under the small claims presumption, refiner, reseller and retailer applicants seeking total refunds of $5,000 or less will not be required to make a detailed demonstration of injury. Such an applicant need only document ist purchase volume of United covered products during the months that the alleged overcharges occurred.

3. *Mid-level refiner, reseller and retailer claimants.* In lieu of making and detailed showing of injury, a refiner, reseller or retailer claimant whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 40 percent of its allocable share up to $50,000. An applicant in this group will only be required to provide documentation of its purchase volumes of United covered products during the months in question in order to be eligible to receive a refund of 40 percent of its total volumetric share, or $5,000 whichever is greater, *E.g., Gulf Oil Corp.*, 16 DOE ¶ 85,381 at 88,737 (1987).

4. *End-users.* We are adopting the presumption that end-users, i.e. ultimate consumers, whose businesses are unrelated to the petroleum industry, were injured by United's alleged overcharges. Unlike regulated firms in the petroleum industry, end-users were generally not subject to price controls during the period covered by this proceeding, and were not required to keep records that justified selling price increases by reference to cost increases. For these records, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *E.g., Marion Corp.*, 12 DOE ¶ 85,014 at 88,030 (1984). Therefore, an end-user of United products need only document its purchase volume of covered products during the months of the alleged overcharges in order to receive a refund on its full volumetric share.

5. *Regulated firms and cooperatives.* Claimants whose prices for goods and services are regulated by a government agency (such as a public utility), or by the terms of a cooperative agreement, need only submit documentation of the volume of covered products purchased by and used by them, or, in the case of cooperatives, sold to their members, during the months when the alleged overcharges occurred, in order to receive a full volumetric refund. These firms would have routinely passed price increases through to their customers, and will now pass on the benefits of the refund to their customers. Accordingly, these firms will not be required to make a detailed demonstration of injury. However, regulated firms or cooperatives will be required to certify that they will pass any refund on to their customers or member-customers, provide us with a full explanation of how they plan to accomplish the restitution, and certify that they will notify the appropriate regulatory body or membership group of their receipt of the refund. *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,514 (1986); *Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We will not require a public utility seeking a refund of $5,000 or less to submit the above referenced certifications and explanation. Sales of covered products by cooperatives to non-members will be treated in the same manner as sales by other resellers or retailers.

6. *Indirect purchasers.* Firms that made indirect purchases of covered United products during the months when the alleged overcharges occurred may also apply for refunds. If an applicant did not purchase directly from United, but believes that covered products it purchased from another firm were originally purchased from United during a month (or months) listed in the appendix, the applicant must establish its basis for that belief and identify the reseller from whom the products were

[11] Nevertheless, we realize that the impact on an individual claimant may have been greater than the volumetric amount. Therefore, the volumetric presumption will be rebuttable, and we will allow a claimant to submit evidence detailing the specific overcharges that it incurred in order to be eligible for a larger refund. See generally Standard Oil Co./ Army and Air Force Exchange Service, 12 DOE ¶ 85,015 (1984).

[12] In a recent decision, the Temporary Emergency Court of Appeals affirmed the OHA's standards for a demonstration of injury. The court specifically upheld the method used by the OHA to evaluate comparative market price and thereby determine competitive disadvantages. *Behm Family Corp* v. *DOE*, 903 F.2d 830 (Temp. Emer. Ct. App. 1990).

purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of United products passed through United's alleged overcharges to its own customers. *E.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451–452 (1986).

7. *Spot purchasers.* We are adopting the rebuttable presumption that a claimant who made only spot purchases from United was not injured as a result of those purchases. A claimant is a spot purchaser if it made only sporadic purchases of significant volumes of covered United products.[13] Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from United. *E.g., Gulf Oil Corp.*, 16 DOE ¶ 85,381 at 88,741 (1987).

IV. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that purchased covered products from United during the months listed in the appendix to this Decision and Order. There is no specific application form that must be used. However, the following information should be included in all Applications for Refund:

(1) The name of the settling firm, United Refining Company; United Refining Company of Pennsylvania, the case number (KEF–0132) and the applicant's name should be prominently displayed on the first page.

(2) The name, title, and telephone number of a person who may be contacted for additional information concerning the Application.

(3) The use(s) of the United covered product(s) by the applicant, i.e., refiner, reseller, retailer, end-user, public utility or cooperative.

(4) Monthly schedules of the applicant's purchasers of each type of covered product that it purchased from United during the months listed in the appendix must be submitted. The applicant should indicate the source of this volume information. Monthly schedules should be based upon actual, contemporaneous business records. If such records are not available, the applicant may submit estimates provided that those estimates are reasonable and the estimation methodology is explained in detail.

(5) If the applicant was an indirect purchaser, it should submit the name, address and telephone number of its immediate supplier and indicate why it believes that the covered product was originally sold by United.

(6) If the applicant is a refiner, reseller or retailer whose volumetric share exceeds $5,000, it must indicate whether it elects to receive the larger of $5,000 or 40 percent of its allocable share up to $50,000. If is does not elect a presumption of injury, it must submit a detailed showing that it was injured by the alleged overcharges. See Section III.B.1.

(7) A statement whether the applicant or a related firm has filed, or authorized any individual to file on its behalf, any other Application for Refund in the United proceeding, and if so, an explanation of the circumstances surrounding that filing or authorization.

(8) A statement whether the applicant was in any way affiliated with United. If so, the applicant should explain the nature of the affiliation.

(9) A statement whether there has been any change in ownership of the entity that purchased the United covered products at any time during or after the settlement period. If so, the name and address of the current (or former) owner should be provided.

(10) A statement of whether the applicant is or has been involved as a party in any DOE or private section 210 enforcement actions. If these actions have been terminated, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of the Application for Refund. See 10 CFR 205.9(d).

(11) The following signed statement:

I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant 18 U.S.C. 1001.

All Applications for Refund must be filed *in duplicate* and must be filed no later than October 31, 1991. A copy of each Application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its Application contains confidential information must so indicate on the first page of the Application and must submit two additional copies of its Application from which the material alleged to be confidential has been deleted, together with a statement specifying why the information is privileged or confidential. All Applications should be sent to: United Refining Company; United Refining Company of Pennsylvania Refund Proceeding, Case No. KEF–0132, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

V. Distribution of Funds Remaining after Consideration of All Refund Applications

In the event that money remains after all meritorious Applications for Refund have been processed, the funds in the United escrow account will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA). 15 U.S.C.A. 4501–4507 (West Supp. 1990).

It is therefore ordered that:

(1) Applications for Refund from the funds remitted to the Department of Energy by United Refining Company; United Refining Company of Pennsylvania pursuant to the Settlement Agreement executed on January 13, 1988, may now be filed.

(2) Applications for Refund from the United Refining Company; United Refining Company of Pennsylvania escrow account must be postmarked no later than October 31, 1991.

Dated: October 26, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX

Month	Year	Products [1]
November	1973	Distillate; Gasoline; GRP
December	1973	Distillate; Gasoline; GRP
January	1974	Distillate; Gasoline; GRP
February	1974	Distillate; Gasoline; GRP
March	1974	Gasoline; GRP
April	1974	Gasoline
September	1974	GRP
October	1974	GRP
November	1974	GRP
December	1974	GRP
February	1975	GRP
October	1975	GRP
January	1976	GRP
February	1976	Distillate
April	1976	Distillate

[1] Refer to footnotes 6 and 7 in text.

[FR Doc. 90–26599 Filed 11–8–90; 8:45 am]

BILLING CODE 6450–01–M

[13] Spot purchasers tend to have considerable discretion as to the timing of purchases and the market in which to make purchases. Accordingly, they generally would not have made spot purchases from United at increased prices unless they were able to pass through the full amount of any price increases to their own customers. *E.g. Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396–397 (1981).

Western Area Power Administration

Environmental Impact Statement, Post-1989 General Power Marketing and Allocation Criteria; Salt Lake City Area Integrated Projects, Extension of Public Comment Period; Additional Scoping Meetings

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of public scoping meetings and extension of comment period.

SUMMARY: The Western Area Power Administration (Western) announced its intent to prepare an environmental impact statement (EIS) on its Post-1989 General Power Marketing and Allocation Criteria in the **Federal Register** on April 4, 1990 (55 FR 12550). The public comment period began April 4. In a subsequent **Federal Register** notice, published September 20, 1990 (55 FR 38747), Western announced that the comment period would end November 16, 1990. That notice also announced five scoping meetings, which were held in October.

In response to requests at the scoping meetings and during the comment period, Western will hold two additional scoping meetings. The comment period has also been extended to December 31, 1990.

DATES: Additional scoping meetings will be held at the following dates and locations. Both meetings begin at 7 p.m.

November 28, 1990, Red Lion Inn, 255 South West Temple, Salt Lake City, Utah.

December 4, 1990, Phoenix Sheraton, 111 North Central, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr. David Sabo, EIS Coordinator, Salt Lake City Area, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524-5493.

Issued at Golden, Colorado, October 31, 1990.

William H. Clagett,

Administrator.

[FR Doc. 90-26600 Filed 11-8-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3859-3]

Environmental Impact Statements and Regulations: Availability of EPA Comments

Availability of EPA comments prepared October 22, 1990 Through October 26, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-AFS-K61108-CA Rating LO1, Kings River Special Management Area (SMA), South Fork, Middle Fork, Kings Wild and Scenic Rivers, Implementation, Sierra and Sequoia National Forests, King River Ranger and Hume Lake Ranger Districts, Fresno County, CA.

Summary: EPA expressed a lack of objections with the proposed action and supported the selection of the preferred alternative.

ERP No. D-AFS-K61109-CA Rating EC2, Lake Red Bluff Recreation Development, Implementation, Mendocino National Forest, Sacreamento River, Tehama County, CA.

Summary: EPA supported the Forest Service's plan to recreate ripiarian woodland and oak woodland habitats and recommended the creation of a six-acre artificial wetland, but expressed environmental concerns regarding development impacts to water quality and beneficial uses.

ERP No. D-COE-J11005-00 Rating EC2, Fort Douglas Base Closure and Realignment, Relocation to Fort Carson, CO; Tooele Army Depot, UT and Fitzsimmons Medical Center, CO, Implementation, Salt Lake City, UT, CO and MT.

Summary: EPA recommends the final EIS discuss the sewage collection system including the collectors and mains in the excessed area.

ERP No. D-NOA-K90025-CA Rating LO2, Monterey Bay National Marine Sanctuary, Establishment, Designation and Management Plan, San Mateo, Santa Cruz and Monterey Counties, CA.

Summary: EPA requested additional information on the best means of oil and hazardous materials spill prevention and response, potential impacts to Sanctuary resources from commercial vehicle traffic, and potential conflicts between boundary alternatives 4 and 5 and current EPA efforts to designate an ocean disposal site for dredged sediments under the Marine Protection Research and Sanctuary Act.

ERP No. DS-COE-G36145-NM Rating LO, Rio Grande Floodway Flood Protection Plan, San Acacia to Bosque del Apache Unit, Implementation, Section 404 Permit, Elephant Butte Reservoir, Socorro County, NM.

Summary: EPA has no objection to the proposed levee rehabilitation project.

Dated: November 6, 1990.

William McGovern,

Acting Director, Office of Federal Activities.

[FR Doc. 90-26603 Filed 11-8-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3859-4]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed October 29, 1990. Through November 2, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900404, FINAL EIS, NOA, FL, NJ, NY, NH, ME, MA, RI, CT, PA, DE, MD, VA, NC, SC, GA, Atlantic Coast Red Drum Fishery Management Plan, Implementation, Exclusive Economic Zone (EEZ) of the east coast of MA, NH, MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, and FL, Due: Decemeber 10, 1990, Contact: William Fox, Jr. (301) 427-2239.

EIS No. 900405, DRAFT EIS, COE, CA, Prado Dam Water Conservation Plan, Implentation, Prado Flood Control Basin, Santa Ana River, Riverside and San Bernardino Counties, CA, Due: December 24, 1990, Contact: Gary Gunther (213) 894-3825.

EIS No. 900406, FINAL EIS, CGD, FL, Miracle Parkway/Everest Parkway Improvement and Midpoint Bridge Construction, Over the Caloosahatchee River, U.S. Coast Guard Approval and Permit, Cape Coral to Fort Myers, Lee County, FL, Due: December 10, 1990, Contact: John W. Winslow (305) 536-4103

EIS No. 900407, DRAFT EIS, AFS, CA, Stanislaus National Forest, Land and Resource Management Plan, Implementation, Alpine, Calaveras, Mariposa and Tuolumne Counties, CA, Due: February 26, 1991, Contact: Janet L. Wold (209) 532-3671.

EIS No. 900408, DRAFT EIS, NPS, CA, Santa Monica Mountains National Recreation Area, Cheeseboro Canyon and Palo Comado Canyon Land Exchange, Ventura and Los Angeles Counties, CA, Due: January 31, 1991, Contact: David Gackenbach (818) 587-1036.

EIS No. 900409, FINAL EIS, GSA, NY, Foley Square Federal Courthouse and Federal/Municipal Office Building

Development, Construction, New York County, NY, Due: December 10, 1990, Contact: Peter Sneed (212) 264-3581.

EIS No. 900410, FINAL EIS, BLM, MT, Bull Mountains Land Exchange, Federal Coal Lands for High Values Recreational and Wildlife Lands, Carbon County, MT, Due: December 10, 1990, Contact: Mat Millenbach (406) 232-4331.

Amended States

EIS No. 900317, FINAL EIS, EPA, NJ, Environmental Technology and Engineering (E-TEC) Facility Development, Testing and Evaluation of Hazardous Substances Control, Construction and Operation, Middlesex County, NJ, Due: November 30, 1990, Contact: Robert Hargrove (212) 264-1892. Published FR 8-22-90—Review period extended.

EIS No. 900356, DRAFT EIS, FHW, CA, San Joaquin Hills Transportation Corridor Improvements, CA-73 Extension between I-5 in San Juan Capistrano City to Jamboree Road in Newport Beach City, Funding and Section 404 Permit, Orange County, CA, Due: November 26, 1990, Contact: James J. Bednar (916) 551-1310. Published FR 9-28-90—Review period extended.

Dated: November 6, 1990.

William McGovern,

Acting Director, Office of Federal Activities.

[FR Doc. 90-26604 Filed 11-8-90; 8:45 am]

BILLING CODE 6560-50-M

[FR-38526]

Proposed Administrative Penalty Assessment and Opportunity to Comment for Texaco U.S.A., Inc., Ventura District, Los Angeles Operations Division

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. section 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. section 1319(g)(4)(a).

Class I proceedings are conducted under EPA's "Guidance on Class I Clean Water Act Administrative Penalty Procedures." The procedures through which the public may submit written comment on a proposed Class I order or participate in a Class I proceeding, and the procedures by which a respondent may request a hearing, are set forth in the guidance document referred to above. The deadline for submitting public comment on a proposed Class I order is thirty days after issuance of public notice.

On the date identified below, EPA commenced the following Class I proceeding for the assessment of penalties:

In the Matter of Texaco U.S.A., Inc., Platform Habitat, Ventura District, Los Angeles Operations Division, Ventura, California; EPA Docket No. IX-FY90-31; filed on October 1, 1990 with Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 1235 Mission Street, San Francisco, California 94103, (415) 556-5997; proposed penalty of $10,000 for a one-time discharge to the Pacific Ocean off Southern California from the Platform Habitat facility in violation of the prohibitions established in General Nathional Pollutant Discharge Elimination System Permit No. CA110516.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's guidance document, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty days after the date of publication of this notice.

Dated: October 1, 1990.

Harry Seraydarian,

Director, Water Management Division.

[FR Doc. 90-26602 Filed 11-8-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. 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.: 224-200373-001.

Title: San Francisco Port Commission/Splosna Plovba Terminal Agreement.

Parties:

San Francisco Port Commission (Port)
Splosna Plovba (Carrier).

Synopsis: The Agreement provides for the transfer of Carrier's terminal operations from South Container Terminal to North Container Terminal ("facilities"), located in the City and County of San Francisco. It also provides for the Carrier's acknowledgment that the responsibility of managing the facilities has been assigned to California Stevedore and Ballast Company.

Agreement No.: 224-200435.

Title: South Carolina State Ports Authority/PCSL US Med Line, Ltd Terminal Agreement.

Parties:

South Carolina State Ports Authority
BCSL—US Med Line, Ltd. (BCSL).

Synopsis: The Agreement provides BCSL certain reduced tariff charges for container and chassis handling, receiving and delivery services; and an annual wharfage incentive schedule. BCSL agrees to use the Port of Charleston as its principal port of call in the range from Wilmington, NC through Jacksonville, FL.

Agreement No.: 224-010968-008.

Title: Maryland Port Administration/Hapag-Lloyd AG/Atlantic Division Terminal Agreement.

Parties:

Maryland Port Administration/Hapag-Lloyd
AG/Atlantic Division.

Synopsis: The Agreement extends the parties' basic agreement an additional three months beginning November 9, 1990, pending the final negotiation of a long term lease between the parties.

Agreement No.: 224-200436.

Title: Port Authority of New York and New Jersey/Maher Terminals, Inc. Terminal Agreement.

Parties:

Port Authority of New York & New Jersey (Port Authority)

Maher Terminals, Inc., (Maher).

Synopsis: The Agreement provides for the leasing of certain properties and improvements of the Port Authority at Port Newark terminal facilities ("facilities") for the storage of lumber, forest products, steel and other general cargo. Maher shall pay a monthly tonnage fee based upon the amount of lumber, forest products, steel and other general cargo placed in the facilities during each monthly period. The term of this Agreement shall expire September 30, 1991.

By Order of the Federal Maritime Commission.

Dated: November 5, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26495 Filed 11-8-90; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-200402-001.

Title: Maryland Port Administration/Puerto Rico Maritime Shipping Authority Terminal Agreement.

Parties:

Maryland Port Administration.

Puerto Rico Maritime Shipping Authority.

Filing Party: Mr. Brenden W. O'Malley, Executive Director, Maryland Port Administration, The World Trade Center, Baltimore, MD 21202-3041.

Synopsis: The Agreement extends the term of the basic agreement for 90 days effective November 9, 1990, pending final negotiations of a long term lease between the parties.

Agreement No.: 224-200437.

Title: Port of New Orleans/Deputy Storage and Forwarding Corporation Terminal Agreement.

Parties:

Port of New Orleans (Port).

Dupuy Storage and Forwarding Corporation (Dupuy).

Filing Party: Julia A. Berrone, Staff Attorney, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, LA.

Synopsis: The Agreement provides for Dupuy to lease Sections 1-45 of the Port's Press Street Wharf. Dupuy will use the facility for the loading and unloading of cargo from vessels, barges, and other watercraft. Dupuy will pay (1) a base rent of $61,420.15 for the first year with a five percent increase commencing on the anniversary date of the second year; and (2) all applicable tariff charges with the exception of demurrage and sheddage charges. The Agreement expires October 31, 1992.

Agreement No.: 224-200392-001.

Title: Port of New Orleans/Coastal Cargo Company, Inc. Terminal Agreement.

Parties:

Board of Commissioners of the Port of New Orleans.

Coastal Cargo Company, Inc.

Filing Party: Gerald O. Gussoni, Jr., Port General Counsel, The Port of New Orleans, P. O. Box 60046, New Orleans, LA 70160.

Synopsis: The Agreement amends the basic agreement to increase the square footage of leased premises at the Esplanade Avenue Wharf and raises the rent proportionally.

By Order of the Federal Maritime Commission.

Dated: November 5, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26534 Filed 11-8-90; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 90-30]

Empresa Maritima Del Estado-Chile (Empremar) v. Mar Shipping Line; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Empresa Maritima Del Estado-Chile (Empremar) ("Complainant") against Mar Shipping Line ("Respondent") was served November 5, 1990. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709(a)(1), by failing to remit ocean freight and other charges, including but not limited to terminal handling charges, due and payable on twenty-one shipments, notwithstanding demand for payment.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by November 5, 1991, and the final decision of the Commission shall be issued by March 3, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26535 Filed 11-8-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

[Dkt. C-3310]

American Life Nutrition, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a New York City based wholesale distributors of dietary food supplements

from making false and unsubstantiated health efficacy claims for any food and drug in the future. In addition, it requires the respondents to publish retractions of previous advertising claims for certain bee pollen, royal jelly, fish oil, and vitamin or mineral products, that were published between December 1, 1987 and December 1, 1988, in newspapers and magazines, and to send corrective notices to past wholesale and retail purchasers.

DATES: Compliant and Order issued October 8, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Harriet Mulhern, New York Regional Office, Federal Trade Commission, 150 William St., suite 1300, New York, NY 10038, (212) 264-1207.

SUPPLEMENTARY INFORMATION: On Tuesday, August 7, 1990, there was published in the **Federal Register**, 55 FR 32141, a proposed consent agreement with analysis In the Matter of American Life Nutrition, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form or order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 46, 52.

Donald S. Clark,

Secretary.

[FR Doc. 90-26544 Filed 11-8-90; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. 9236]

Consumer Direct, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, two Ohio based companies and their officers from making false and unsubstantiated claims about "Gut Buster", an exercise device. Respondents are required to include a notice stating—that overstretching the spring in the device may break the spring and cause injury—in all advertisements and to warn past purchasers of the potential for breakage and personal injury from the device.

DATES: Complaint issued January 5, 1990 and amended April 30, 1990. Order issued October 29, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Maureen Enright, FTC/S-4002, Washington, DC 20580, (202) 326-3160.

SUPPLEMENTARY INFORMATION: On Tuesday, August 14, 1990, there was published in the **Federal Register**, 55 FR 33160, a proposed consent agreement with analysis In the Matter of Consumer Direct, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Donald S. Clark,

Secretary.

[FR Doc. 90-26545 Filed 11-8-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following are those information collections recently submitted to OMB.

1. Report of Accounting Personal Property—HHS-565-0990-0081—This form is used to report all accountable personal property purchased or fabricated by contractors and billed to HHS. *Respondents:* State or local governments, business or other for-profit, non-profit institutions, small business; *Annual Number of Respondents;* 3,600; *Annual Frequency of Response:* one time; *Average Burden per Response:* 30 minutes; *Total Annual Burden:* 1,800 hours.

2. Recordkeeping Requirements for Government Owned/Contractor Held Property—0990-0015—These recordkeeping requirements are needed to assure accountability and control for government owned/contractor held property for HHS contracts. *Respondents:* State or local governments, business or other for-profit, non-profit institutions, small business; *Annual Number of Responses:* 4,500; Average *Burden per Response:* 6 minutes; *Total Annual Burden:* 450 hours.

3. HHS Acquisition Regulation—HHSAR part 352—Solicitation Provisions and Contract Clauses—0990-0130—The requirement for the Key Personnel Clause is needed by HHS contracting and project staff to assess the qualifications of proposed contractor changes to key project personnel. *Respondents:* State or local governments, business or other for-profit, non-profit institutions, small business; *Annual Number of Respondents:* 1,565; *Annual Frequency of Response:* One time; *Average Burden per Response:* One hour; *Total Annual Burden:* 1,565 hours.

HHS Acquisition Regulation—HHSAR part 370—Special Programs Affecting Acquistion—0990-0129—HHAR § 370.1 establishes requirements to assure the accessibility of meetings, conferences and seminars to persons with disabilities; HHSAR § 370.2 establishes criteria for Indian preference in contractor employment, training, and subcontractor opportunities. *Respondents:* State or local governments, business or other for-profit, non-profit institutions, small business; Burden Information for 370.1—*Annual Number of Respondents:* 220; *Annual Frequency of Response:* One time; *Average Burden per Response:* Eight hours; *Total Annual Burden:* 1,760 hours. Burden Information for 370.2—*Annual Number of Respondents:* 460; *Annual Frequency of Response:* Twice; *Average Burden per Response:* Eight hours; *Total Annual Burden:* 7,360 hours.

OMB Desk Officer: Allison Herron.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619-0511. Written comments and recommendations for the

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: October 30, 1990.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

[FR Doc. 90-26498 Filed 11-8-90; 8:45 am]

BILLING CODE 4150-04-M

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication.

(For a copy of the package, call the FSA, Report Clearance Officer 202-252-5604.)

Availability of Funds and Request for Applications under the Office of Community Services' FY 1991 Discretionary Grants Programs—0970-0062—This information collection will be used as a generic grant application request to OMB for the Office of Community Services' five program announcements—Discretionary Grant Program, Community Food and Nutrition Grant Program, Low Income Home Energy Assistance Program, Demonstration Partnership Program, and Jobs Opportunity for Low-Income Individuals Program. *Respondents:* State and local governments, non-profit institutions; *Number of Respondents:* 620; *Frequency of Response:* One-time; *Estimated Average Burden per Response:* 17.90; *Estimated Annual Burden:* 11,100 hours.

OMB Desk Officer: Laura Oliven.

Written comments and recommendations for the proposed information collection should be sent directly to the OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: October 29, 1990.

Sylvia E. Vela,

Deputy Associate Administrator, Office of Management and Information Systems.

[FR Doc. 90-26565 Filed 11-8-90; 8:45 am]

BILLING CODE 4150-04-M

Social Security Administration

[Social Security Ruling SSR 90-3c]

Representation of Claimant—Validity of Regulation for Determining Attorney Fees—Administrative Proceedings

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 90-3c. This Ruling, which is based on a decision made by the United States Court of Appeals for the Fifth Circuit, concerns the validity of the Secretary's regulations for determining attorney fees in administrative proceedings.

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: John W. Modler, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-1713.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings are based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: October 23, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Section 206(a) of the Social Security Act (42 U.S.C. 406(a)) Representation of Claimant—Validity of Regulation for Determining Attorney Fees—Administrative Proceedings

20 CFR 404.1720 and 4040.1725

Weisbrod v. *Sullivan*, 875 F.2d 526 (5th Cir. 1989)

Plaintiff, an attorney who represents Social Security claimants, filed a suit against the Secretary challenging the regulations at 20 CFR 4040.1725(b). Plaintiff asserted that the regulations, which the Secretary applies in "fixing a reasonable fee" pursuant to 42 U.S.C. 406(a), employ an impermissibly arbitrary and capricious formula. Plaintiff contended that, because courts consider delays in payment, prevailing market rates, and the contingency of payment in determining fees under other statutes, the Secretary must explicitly consider these factors in determining reasonable fees at the administrative level under 42 U.S.C. 406(a).

The district court dismissed the complaint and plaintiff appealed to the United States Court of Appeals for the Fifth Circuit. In affirming the district court's dismissal, the court of appeals rejected the plaintiff's contentions concerning the factors which the Secretary must consider. The court noted that none of the cases plaintiff cited considered fees under 42 U.S.C. 406(a) and that all of the Supreme Court decisions plaintiff cited involved "fee-shifting" statutes. The court stated that there is no reason why the factors relevant to fees that a losing party pays to a prevailing party under fee-shifting statutes have any bearing on the determination of fees an attorney may charge a Social Security claimant at the administrative level. The court found that the Secretary has a broad grant of statutory authority to promulgate regulations in the fee setting area and that 20 CFR 4040.1725(b) constitutes a reasonable exercise of delegated authority which is consistent with the statutory scheme. The court noted that the seven regulatory factors used in deciding attorneys' fees appear rationally related to the overall objective of ensuring that an attorney receives a fair fee for the work he or she performs while at the same time not unduly dissipating the claimant's

benefits. The court further noted that it is entirely rational not to burden claimants with additional fees because of delay which is inherent in the system, and that the Secretary should not be mandated to require claimants to pay higher fees merely because their attorneys take other cases on a contingency basis and run the risk of not being paid in those cases.

The court rejected the plaintiff's further contention that the Secretary violates equal protection in his practice of regulating the attorney fees which a private, third party insurer pays but not regulating attorney fees which nonprofit organizations and government agencies pay (*see* SSR 85-3, C.E. 1981-1985, p. 2[illegible]5). The court reasoned that the distinction does not violate equal protection because classifications that social welfare legislation create are routinely upheld under the rational basis standard when, as here, no suspect class is involved.

In affirming the district court's dismissal, the court of appeals *held* that the Secretary did not exceed his statutory authority and that the challenged regulations are neither arbitrary nor capricious.

Hunter, Jr., District Judge: [1]

Section 206(a) of the Social Security Act ("ACT"),[1] vested the Secretary with authority to set "reasonable" fees that attorneys may charge their clients in administrative proceedings and to institute regulations to fulfill this mandate. A regulation promulgated pursuant to this statute sets forth various factors to be considered when the Secretary sets a fee. Appellant, Weisbrod, an attorney who represents Social Security claimants instituted this suit against the Secretary of Health and Human Services attacking this regulation as impermissibly employing an arbitrary and capricious formula. The Secretary filed a motion for judgment on the pleadings requesting dismissal on multiple grounds. The motion was granted in a one paragraph order.[2]

Because we are convinced that the Secretary did not "exceed his statutory authority" and that the regulation is neither arbitrary nor capricious, we affirm the dismissal.

Under the APA, a court may set aside agency action only if it is arbitrary, capricious, or an abuse of discretion. 5 U.S.C. 706(2)(A); *see also Schweiker*, 453 U.S. at 44, 101 S.Ct. at 2640. The court is not to substitute its judgment for that of the agency, *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 415-16, 91 S.Ct. 814, 823-24, 28 L.Ed.2d 136 (1971), and is to be extremely deferential to an agency's interpretation of its governing legislation. *United States Dept. of Transp.* v. *Paralyzed Veterans of America*, 477 U.S. 597, 106 S.Ct. 2705, 91 L.Ed.2d 494 (1986).

Congress delegated to the Secretary broad discretion in the fee fixing area. The Secretary "may, by rule and regulation, prescribe * * * maximum fees" and must fix a reasonable fee "in accordance with the regulations prescribed." The regulation the Secretary promulgated in order to fulfill this congressional mandate sets out seven factors to be used in deciding awards of attroney's fees.[3] Both the enabling legislation and the Secretary's regulation appear to be aimed at ensuring that an attorney receives a fair fee for the work he or she performs while at the same time not unduly dissipating the claimant's benefits. Plaintiff insists that because section 206(a) mandates the award of a reasonable fee, such fees must be based on prevailing market rates in the relevant community and must take into consideration factors that may affect the valuation of the services such as delay in payment and contingency of payment.

In addressing plaintiff's contention it is appropriate to quote from *Schweiker* v. *Gray Panthers*, 453 U.S. 34, 101 S.Ct. 2633, 69 L.Ed.2d 460 (1981):

The Social Security Act is among the most intricate ever drafted by Congress. Its Byzantine construction, as Judge Friendly has observed, makes the Act "almost unintelligible to the uninitiated". *Friedman* v. *Berger*, 547 F.2d 724, 727, n. 7 (CA2 1976), cert. denied, 430 U.S. 984, 97 S.Ct. 1681, 52 L.Ed.2d 378 (1977). Perhaps appreciating the complexity of what it had wrought, Congress conferred on the Secretary exceptionally broad authority to prescribe standards for applying certain sections of the Act. *Batterton* v. *Francis*, 432 U.S. 416, 425, 97 S.Ct. 2399, 2405, 53 L.Ed.2d 448 (1977).

Here, the delegation of authority to the Secretary in section 206(a) is as great as that contained in the provision at issue in *Gray Panthers*. The reasonableness inquiry is an objective one. Is it legitimate and neutral? Is it rationally related to its overall objective? The attorney is invited to submit his evaluation of the worth of his services in the form of a fee petition. 20 CFR 404.1720(b). The decision maker who sets the fee evaluates, among other things, the level of services, the skill of the attorney, the nature of the case and the extent to which it was pursued, as well as the actual amount the representative requests. 20 CFR 404.1725(b). Nothing appears more appropriate to achieving a just result.

Nevertheless, we briefly address the major premise of appellant's argument that: delay—contingency—and prevailing rate must be explicitly considered. He contends that because these factors are sometimes used by courts in determining fees *under other statutes*, they must also be explicitly taken into account under section 206(a). None of the cases cited considered fees under section 206(a). The Supreme Court cases cited all involve *fee shifting* statutes such as the Civil Rights Attorney's Fees Awards Act. *See, e.g., Blum* v. *Stenson*, 465 U.S. 886, 104 S.Ct. 1541, 79 L.Ed.2d 891 (1984). There is no reason why the factors relevant to the fees to be paid *by a losing party to a prevailing party* under such statutes have any bearing on the determination of fees that an attorney may charge a Social Security claimant at the administrative level.

The Supreme Court has never decided what constitutes a "reasonable" fee under section 206(a), or, for that matter, what constitutes a "reasonable" fee outside the context of fee shifting statutes. And the lower court decisions cited by plaintiff concerning fees under section 206(b) are limited to the reasonableness of fees for *court* proceedings. Indeed, the assumption that Congress intended the same standards to be applied under sections 206(a) and 206(b) is belied by the fact that Congress enacted two separate statutory provisions for the awarding of fees at the administrative level and in

[1] District Judge of the Western District of Louisiana, sitting by designation.

[1] 42 U.S.C. 406(a)

[2] The district court determined that the regulation challenged by Weisbrod was not subject to judicial review. Weisbrod argues that the Supreme Court consistently has entertained other challenges to the Secretary's regulations according to the terms of the Administrative Procedure Act ("APA"), 5 U.S.C. 701 *et seq. See, e.g., Schweiker* v. *Gray Panthers*, 453 U.S. 34, 43, 101 S.Ct. 2633, 2640, 69 L.Ed.2d 460 (1981). We think it is clear that the district court intended to say that the fee amounts fixed by the Secretary pursuant to this regulation are not subject to judicial review—not the regulation itself. (*See infra*) The Court's possible misstatement does not present a problem because it also held that the challenged regulation is neither arbitrary nor capricious.

[3] Those elements are:

(i) The extent and type of services performed;

(ii) The complexity of the case;

(iii) The level of skill and competence required of the representative giving the services;

(iv) The amount of time spent on the case;

(v) The results the representative achieved;

(vi) The level of the review to which the claim was taken and the level of the review at which the representative became your representative; and

(vii) The amount of fee the representative requests for his or her services, including any amount authorized or requested before, but not including the amount of any expense he or she incurred. 20 CFR 404.1725(b).

court. Had Congress intended that the two provisions be identical, it surely would not have enacted separate provisions. In enacting section 206(a), Congress did not perceive a need for attorneys in administrative proceedings and was concerned that where attorneys were utilized, their fees be regulated so as to protect Social Security claimants. *See* S. Rep. 734, 76th Cong., 1st Sess. at 53 (1938); H.R. Rep. 728, 76th Cong., 1st Sess. at 44 (1939).

It is entirely rational not to burden claimants by subtracting additional sums from their benefits for delay that is inherent in the system and of which an attorney knew or should have known when he agreed to handle the claim. The actual fee requested is explicitly listed as a factor to be considered. An attorney is free to consider delay "in payment" and "prevailing community rates", when he submits his fee request. Finally, the fact that "contingency of payment" is not explicitly required to be considered is hardly surprising. From every perspective, the Secretary should not be mandated to require successful claimants, many of whom are on limited, fixed incomes, to pay higher attorneys' fees simply because their attorney has taken on other cases on a contingency basis and runs the risk of not being paid in those cases.

Congress explicitly delegated to the Secretary broad authority to promulgate regulations in the fee setting area. The regulations challenged are consistent with the statutory scheme. They constitute a reasonable exercise of delegated power. They are neither arbitrary nor capricious.[4]

The judgment of the district court is "Affirmed".

[FR Doc. 90-26549 Filed 11-8-90; 8:45 am]

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[4] In some instances, private insurance companies (which already have provided disability payments to the claimants under private insurance plans) pay Weisbrod's fees. The Secretary refuses to exempt these fees that are paid by the insurance companies from regulation. Weisbrod maintains that this practice of regulating the amount of attorney's fees paid by third party insurers while at the same time exempting from regulation the attorney's fees paid by nonprofit organizations and government agencies violates equal protection. We do not agree. The Supreme Court routinely upholds classifications created by social welfare legislation under the rational basis standard, where as here, no suspect class is involved. *E.g. Schweiker* v. *Hogan*, 457 U.S. 569, 102 S.Ct. 2597, 73 L.Ed.2d 227 (1982); *Schweiker* v. *Wilson*, 450 U.S. 221, 101 S.Ct. 1074, 67 L.Ed2d 186 (1981); *Califano* v. *Jobst*, 434 U.S. 47, 98 S.Ct. 95, 54 L.Ed.2d 228 (1977); *Jefferson* v. *Hackney*, 406 U.S. 535, 92 S.Ct. 1724, 32 L.Ed.2d 285 (1972)

[Social Security Ruling SSR 90-5c]

Disability Insurance Benefits—Interpreting the Statutory Blindness Provision

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 90-5c. This Ruling, which is based on a decision made by the United States Court of Appeals for the Ninth Circuit, concerns the Secretary's interpretation of the statutory blindness provision in section 216(i)(1)(B) of the Social Security Act (42 U.S.C. 416(i)(1)(B)).

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: John W. Modler, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-1713.

SUPPLEMENTARY INFORMATION:

Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings are based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: October 26, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 216(i)(1)(B) and 223 (c)(1) and (d)(1)(B) of the Social Security Act (42 U.S.C. 416(i)(1)(B) and 423 (c)(1) and (d)(1)(B)) Disability Insurance Benefits—Interpreting the Statutory Blindness Provision

20 CFR 404.130(e) and 404.1581

Adams v. *Bowen* 872 F.2d 926 (9th Cir. 1989), cert. denied, —U.S.—, 110 S. Ct. 151 (1989)

The claimant, a 56-year-old diabetic, applied for disability insurance benefits under title II of the Social Security Act (the Act), contending that she was unable to work because of impaired vision. Although she did not have 20 quarters of coverage in the 40-quarter period ending with the quarter of alleged disability, she was fully insured and would have met the diability insured status requirements under section 223(c)(1) of the Act and would have been entitled to disability insurance benefits, had she established that she was statutorily blind. Section 216(i)(1)(B) of the Act provides that a person is statutorily blind if he or she has either central visual acuity of 20/200 or less in the better eye with the use of correcting lens, or has a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees which is considered as having a central visual acuity of 20/200 or less. The evidence of record showed that the claimant's visual acuity in each eye was approximately 20/50 and her visual fields were intact. Because of neurological impairment, however, the claimant had difficulty processing visual information when the environment around here was moving. She would trip and fall when she walked, and she could not see well enough to put a staple in the corner of a piece of paper. A neuropsychologist stated that, because of her condition, the claimant was in many ways worse off than someone who was blind. Moreover, three ophthalmologic specialists, including the claimant's attending physician, characterized here as being "functionally blind." The Secretary, nonetheless, denied the claimant's application because the evidence showed that she did not meet the statutory definition of blindness. The district court upheld the Secretary's denial, and the claimant appealed to the Court of Appeals for the Ninth Circuit. She argued that, even though section 216(i)(1)(B) of the Act sets forth a specific definition of blindness for

purposes of determining entitlement to disability insurance benefits, "Congress cannot have intended that disability benefits be awarded to those who are effectively blind because of damage to their eyes while denying benefits to those who suffer the same impairment because of damage to the brain." In essence, the claimant advocated to use of an equivalency requirement for the condition of blindness described in the statute. The court of appeals, however, rejected that argument and found that, because the language of the statute was clear, the definition of blindness should be read and applied literally. The court stated that there was nothing in the legislative history of the pertinent statutory provisions which suggested that Congress had intended anything but a narrow reading of the statute's unambiguous language. Finally, the court found that the Secretary's interpretation of the statute was entitled to due deference and that the Secretary had clearly interpreted it to require a strict application of the statutory definition. In upholding the district court's affirmation of the Secretary's decision, the court of appeals held that the Secretary's decision was supported by substantial evidence and that it was based on the application of a correct legal standard. The Supreme Court denied the claimant's request that it hear this case.

Canby, Circuit Judge:

Lucretia Adams appeals from the district court's decision upholding the determination of the Secretary of Health and Human Services (the Secretary) that Adams is not entitled to social security diability benefits, 683 F.Supp. 231. The Secretary's decision to deny benefits " 'will be disturbed only if it is not supported by substantial evidence or it is not supported by substantial evidence or it is based on legal error.' " *Brawner* v. *Secretary of Health & Human Servs.*, 839 F.2d 432, 433 (9th Cir. 1988) (quoting *Green* v. *Heckler*, 803 F.2d 528, 529 (9th Cir. 1986)). *See* 42 U.S.C. 405(g) (1982). We review the district court's conclusion *de novo. Gamer* v. *Secretary of Health & Human Servs., 815 F.2d 1275, 1278 (9th Cir. 1987).*

Background

The relevant facts are undisputed. Adams, a 56-year-old diabetic with impaired vision, has 32 quarters of coverage since 1980 and is "fully" insured under the requirements of 20 CFR 404.130 (1988). However, Adams does not have 20 quarters of coverage in the 40-quarter period ending with the quarter of alleged disability; therefore, she is not "specifically insured. Because Adams is "fully," but not "specially," insured, she must be statutorily blind in order to be eligible for disability benefits based upon her visual deficiency. 20 CFR 404.130(e). The statute defines blindness as follows:

> [T]he term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

42 U.S.C. 416(i)(1)(B) (Supp. IV 1986).[1]

In December of 1980, Adams suffered a heart attack. During coronary bypass surgery several months later, Adams had a stroke leaving her totally blind with partial left-sided paralysis. Adams has recovered, largely successfully, from the effects of the stroke. She is no longer completely blind and has regained full use of all but here left hand.

Adams continues to suffer, however, from a neurological impairment affecting the "central processing of visual information." Although she has intact visual fields, and her visual acuity in each eye is approximately 20/50, Adams has difficulty processing visual information when the environment around her is moving. She cannot see well enough to put a staple in the corner of a piece of paper and must avoid brick sidewalks and escalators, which make her nauseous. She trips and falls while walking. The consulting neuropsychologist described her condition as follows:

> While her visual acuity may well be relatively intact, her ability to perceive and use that visual information in an efficient manner is highly compromised. She is severely impaired on all tasks involving visual scanning and visual planning and organization. In this regard, while she is not blind in the sense of having lost the sensation of vision, she is in many ways worse off than someone who is blind. That is because of her difficulty with visuoprattic function and her ability to use efficiently what information is available to her. At this time, she is vocationally disabled of this lack of visual efficiency.

[1] The language of the corresponding regulation simply track the statute: We will consider you blind under the law for a period of disability and for payment of disability insurance benefits if we determine that you are statutorily blind. Statutory blindness is defined in the law as central visual acuity of 20/200 or less * * * in the better eye with the use of correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less. 20 CFR 404.1581 (1988).

The Administrative Law Judge (ALJ) noted that three opthalmologic specialists, including Adams' treating physician, agree that she is "functionally blind."

Despite Adams' functional blindness, the ALJ rejected her disability claim, reasoning that Adams does not strictly satisfy the highly specific statutory definition of blindness. The ALJ noted that Adams is clearly "visually disfunctional" and "would be found disabled if she were specially insured instead of only fully insured." The Appeals Council denied Adams' request for review of the ALJ's decision.

Discussion

Adams contends that, although 42 U.S.C. 416(i)(1)(B) sets for a specific definition of blindness for purposes of determining entitlement to disability benefits, "Congress cannot have intended that disability benefits be awarded to those who are effectively blind because of damage to their eyes while denying benefits to those who suffer the same impairment because of damage to the brain." In essence, Adams advocates the use of an equivalency requirement for the condition of blindness described in the statute. The Secretary, on the other hand, argues that there is nothing in the language of the statute or the legislative history "suggesting that Congress intended the Secretary to apply any standard other than the strict definition in the statute." Furthermore, the Secretary contends that the agency's interpretation of the statute and the implementing regulation are entitled to great deference. This is a case of first impression.

The basic rules of statutory construction are long-standing and well-settled:

> In construing a statute in a case of first impression, we look to the traditional signposts of statutory construction: first, the language of the statute itself; second, its legislative history, and as an aid in interpreting Congress' intent, the interpretation given to it by its administering agency.

Funbus Systems, Inc. v. *California Pub. Util. Comm'n*, 801 F.2d 1120, 1125–26 (9th Cir.1986) (citation omitted). *See Washington State Dep't of Game* v. *I.C.C.*, 829 F.2d 877, 879 (9th Cir.1987). 42 U.S.C. 416(i)(1)(B) presents a clear definition of what blindness "means." "As a rule, '[a] definition which declares what a term "means" * * * excludes any meaning that is not stated.' " *Colautti* v. *Franklin*, 439 U.S. 379, 393–93 n. 10, 99 S.Ct. 675, 684 n. 10, 58 L.Ed.2d 596 (1979) (quoting 2A C. Sands, *Statutes*

and Statutory Construction § 47.07 (4th ed. Supp.1978)). *See, e.g., Johns-Manville Corp.* v. *United States*, 855 F.2d 1556, 1559 (Fed.Cir.1988), *cert. denied*, — U.S. —, 109 S.Ct. 1342, 103 L.Ed.2d 811 (1989); *Leber* v. *Pennsylvania Dep't of Envtl. Resources*, 780 F.2d 372, 376 (3d Cir.), *cert. denied*, 478 U.S. 1004, 106 S.Ct. 3294, 92 L.Ed.2d 710 (1986). Because the language of the statute is clear, the definition of blindness should be read and applied literally.

Nothing in the legislative history of the Social Security Amendments of 1967, including section 416(i)(1)(B), suggests that Congress intended anything but a narrow reading of the statute's unambiguous language. *See Escobar Ruiz* v. *INS*, 838 F.2d 1020, 1023 (9th Cir.1988) (en banc) (even if a statute is plan and unambiguous, courts may look to see if there is clearly expressed legislative intent contrary to the language); *California* v. *Klepp*, 604 F.2d 1187, 1194 (9th Cir.1979) (" '[E]ven the most basic general principles of statutory construction must yield to clear contrary evidence of legislative intent.' ") (quoting *National R.R. Passenger Corp.* v. *National Ass'n of R.R. Passengers*, 414 U.S. 453, 458, 94 S.Ct. 690, 693, 38 L.Ed.2d 646 (1974). The Senate Report states only that "[i]n order to qualify for benefits a person would have to have vision of 20/200 or less." *See* 1967 U.S.Code Cong. & Adm. News 2834, 2842, 2886–87. Although the statute purposely "liberalized" the previous definition of blindness "[i]n recognition of the economic hardships faced by blind persons," *id.* at 2886, 3200, there is no indication that the equivalency requirement urged by Adams was intended or even contemplated by Congress.[2] Congress chose a certain and exact rule; we are reluctant to engraft upon it a more flexible standard that is inherently more difficult to administer.

Finally, the rules of statutory construction require us to consider the Secretary's interpretation of the statute. "The interpretation of statutes and regulations by an agency charged with their administration is entitled to due deference and should be accepted unless demonstrably irrational or clearly contrary to the plain meaning." *Nevitt* v. *United States*, 828 F.2d 1405, 1406–07 (9th Cir.1987) (citing *Udall* v. *Tallman*, 380 U.S. 1, 85 S.Ct. 792, 13 L.Ed.2d 616 (1965)). *See also Gardebring* v. *Jenkins*, 485 U.S. 415, 108 S.Ct. 1306, 1314, 99 L.Ed.2d 515 (1988) (deference to Secretary's reading of agency's regulation). While, as Adams points out, this is not a case in which the Secretary has issued an *interpretative* regulation, we can evaluate the Secretary's interpretation as demonstrated by his position in this litigation and section 26005.001 of the Secretary's Program Operations Manual System dealing with statutory blindness. The Secretary clearly interprets the statute to require a strict application of the statutory definition.

The Secretary's decision is supported by substantial evidence and is based on the application of a correct legal standard.

Affirmed.

[FR Doc. 90–26548 Filed 11–8–90; 8:45 am]

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[2] The Senate Report does not note that "[t]his definition of blindness is the definition in the Internal Revenue Code and is used by a number of governmental and private agencies." 1967 U.S.Code Cong. & Admin.News 2886. *See* I.R.C. 151(d)(3) (1982) (repealed in 1986; preceded by I.R.C. 25(b)(1)(C)(iii) (1948) and I.R.C. 25(y) (1944)). Prior interpretations of section 151(d)(3) or its predecessors might therefore be indicative of congressional intent because "[i]t is always appropriate to assume that our elected representatives, like other citizens, know the law * * *." *Cannon* v. *University of Chicago*, 441 U.S. 677, 696–97, 99 S.Ct. 1946, 1957–58, 60 L.Ed.2d 560 (1979). *See also Goodyear Atomic Corp.* v. *Miller*, 486 U.S. 174, 108 S.Ct. 1704, 1711–12, 100 L.Ed.2d 158 (1988); *Blitz* v. *Donovan*, 740 F.2d 1241, 1245 (D.C.Cir. 1984).

However, the only case dealing with the application of section 151(d)(3) or its predecessors to a visual impairment not meeting the strict statutory definition appears to be *Hollman* v. *Commissioner*, 38 T.C. 251 (1962). Although the holding in *Hollman* supports Adams' functional blindness interpretation generally, *id.* at 258, 262, it is not sufficient to provide a clear insight into legislative intent.

Social Security Ruling SSR 90-2c, Family Relationships—Recognition of Common-Law Marriage—Illinois

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 90–2c. This Ruling, which is based on a Federal district court decision, concerns the law of Illinois regarding common-law marriages and the applicability of that law in a claim for widow's insurance benefits under title II of the Social Security Act.

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: John W. Modler, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–1713.

SUPPLEMENTARY INFORMATION:

Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings are based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security — Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivior's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: October 26, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Section 216(h)(1)(A) of the Social Security Act (42 U.S.C. 416(h)(1)(A)) Family Relationships—Recognition of Common-Law Marriage—Illinois

20 CFR 404.726

Lynch v. *Bowen*, 681 F. Supp. 506 (N.D. Ill. 1988)

The claimant applied for widow's insurance benefits on the deceased worker's earnings record. After the Secretary determined that the claimant was not the worker's widow and denied her application, the claimant sought judicial review in Federal district court, contending that she and the worker had contracted a valid common-law marriage. Applying section 216(h)(1)(A) of the Social Security Act (42 U.S.C. 416(h)(1)(A)), the district court considered whether the courts of the State of Illinois, the worker's domicile when he died, would hold that the claimant and the worker were married at the time of the worker's death. The evidence of record showed that the claimant and the worker were never

ceremonially married, that they lived together in Illinois and were domiciled there from 1946 until the worker's death on January 30, 1984, and that during their relationship they made brief trips to jurisdictions that recognize common-law marriages. In agreeing with the Secretary's interpretation of Illinois law, the district court held that Illinois law does not recognize common-law marriages that are (1) contracted within Illinois or (2) contracted by its domiciliaries based on brief sojourns or visits to jurisdictions that recognize common-law marriages. The court *further held* that, even if the domiciliaries were unaware that Illinois did not accept common-law marriages and they did not travel out of State with the intent of avoiding Illinois' prohibition, Illinois law would not recognize the common-law marriage. The district court affirmed the Secretary's decision that the claimant was not the worker's widow and, thus, was not entitled to widow's insurance benefits on the worker's earnings record.

SHADUR, District Judge:

Laura Lynch ("Lynch") seeks widow's insurance benefits, based on the earnings record of James Lynch ("James") [1] under part of the Old Age, Survivors and Disability Insurance program ("OASDI") embodied in Social Security Act ("Act") section 202(e), 42 U.S.C. 402(e).[2] When Lynch sought judicial review of a final decision by the Secretary of Health and Human Services ("Secretary") denying her claim, this Court issued a July 1, 1986 order remanding the case to Secretary for further consideration.

After a December 16, 1986 hearing, Administrative Law Judge ("ALJ") Irving Stillerman denied Lynch's application on March 17, 1987. When the Appeals Council affirmed the ALJ's decision July 10, 1987, Lynch renewed this action against Secretary under section 405(g).

Now the parties have filed cross-motions for summary judgment under Fed.R.Civ.P. ("Rule") 56. For the reasons stated in this memorandum opinion and order, Secretary's motion is granted and Lynch's is denied.

Facts [3]

Lynch, now 65, lived with James as wife and husband from 1946 until James' death on January 30, 1984. Lynches were never married in a formal ceremony, but Lynch insists they believed they were married under common law principles they thought the State of Illinois recognized. Lynches were domiciled in Illinois for their entire time together.

Lynches had three children and maintained a series of apartments together in Chicago. They introduced each other as husband and wife, signed various joint contracts and filed joint income tax returns. Lynch was also the beneficiary of James' life insurance policy.

During their time together Lynches took four trips outside the State of Illinois—trips now offered to establish a valid common law marriage. They took two trips to Pennsylvania, the first (in 1947) of about ten days' duration to visit Lynch's relatives and the second (in 1948) for about two or three days to investigate a possible business opportunity. Lynch also recalls a 1948 trip of three or four days' length to Alanta, Georgia, where James had an engagement as a musician in a band. Lynches also travelled with one of their daughters to Washington, DC for one week in 1965. On all those trips Lynches travelled and held themselves out as husband and wife. When staying in hotels they registered as a married couple.

History of Lynch's Claim

After James' death, Lynch applied for survivor's benefits under the Act on March 1, 1984. Her application was denied, originally and on reconsideration, on the basis that she was not James' widow under Illinois law. Lynch requested and obtained a hearing, held before ALJ James Drzewiecki on October 30, 1984. ALJ Drzewiecki's November 30, 1984 decision denied Lynch's application, finding (1) Lynches had lived solely in Illinois, (2) Illinois did not recognize common law marriages and (3) Lynch had not established a valid common law marriage in any other state (R. 5). On July 1, 1985 the Appeals Council declined to review the ALJ's decision, and Lynch initially sought judicial review here.

On Lynch's motion, this Court (as stated at the outset of this opinion) remanded the case for a determination whether Lynch had validly established her marriage under the laws of any sister state and the operative provisions of Illinois law for the recognition of foreign marriages. Lynch received her second hearing (that before ALJ Stillerman), then returned to this Court once Secretary's decision had become final.

Applicable Standards

Of course one precondition to the payment of widow's insurance benefits under the Act is the claimant's proof she was married to the insured individual at the time of his death. Section 416(h)(1)(A) contains the relevent definition of marriage:

> An applicant is the * * * widow * * * of a fully or currently insured individual for purposes of this subchapter if * * * the courts of the State in which he was domiciled at the time of death * * * would find that such applicant and such insured individual were validly married * * * at the time he died.[4]

Under Illinois law (James was domiciled here at his death) common law marriages contracted in Illinois after 1905 are invalid (Ill. Rev. Stat. ch. 40, ¶214). But the Illinois Marriage and Dissolution of Marriage Act (the "Illinois Act," enacted in 1977) also contains a provision for the recognition of foreign marriages (Ill. Rev. Stat. ch. 40, ¶213):[5]

> All marriages contracted * * * outside this State, that were valid at the time of the contract or subsequently validated by the laws of the place in which they were contracted or by the domicile of the parties, are valid in this State, except where contrary to the public policy of this State.

Secretary's Decision

ALJ Stillerman's March 17, 1987 decision focused on the legal question whether Illinois courts would recognize Lynches as married at the time of James'

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[1] Laura and James Lynch will collectively be referred to as "Lynches."

[2] All further citations to provisions of the Act will take the form "Section—," referring to the Title 42 numbering rather than to the Act's internal numbering.

[3] This factual discussion is largely taken from Lynch's submissions to the Court. As befits a summary judgment motion, the facts must be viewed in the light most favorable to the non-movant on the successful motion—in this case Lynch (*DeVaik Lincoln Mercury, Inc.* v. *Ford Motor Co.*, 811 F.2d 326, 329 (7th Cir. 1987)). Because this case turns solely on a question of law and the essential facts are not in dispute, no problem arises in this respect. However, this opinion's references to the record are limited as the result of an unfortunate misunderstanding as to the filing of documents in the Clerk's Office. Although government counsel properly filed the administrative record as it was developed following the July 1986 remand, that record did not find its way to the regular court file in the Clerk's Office. Accordingly, when this Court's law clerk began to prepare his draft opinion to submit for this Court's reworking and final preparation, he found no administrative record in the court file—and this opinion therefore had to be prepared solely in the basis of the parties' legal submissions. Given the nature of the dispute, however, that has had no impact whatever on the analysis or conclusions reached here.

[4] (Footnote by this Court) section 416(h)(1)(A) also states an individual shall be deemed a widow, even without a valid marriage, if the individual would have the status of a widow for the devolution of intestate personal property. Lynch has not claimed that status.

[5] All further references to the Illinois Act will take the form "Ill. Act § —." This use of the "§" symbol rather than "¶" conforms to the Illinois General Assembly's use of the former in the internal designation of legislation, while Smith-Hurd uses the latter in its statutory compilation.

death. After reviewing Lynch's testimony and the documentary evidence she submitted, the ALJ found Lynches were domiciled only in Illinois during their relationship and Illinois would not recognize a common law marriage contracted here (ALJ decision at 4). ALJ Stillerman then considered whether Illinois would recognize a common law marriage Lynches may have contracted during their visits to jurisdictions that accept such marriages. Although some other states might do so, the ALJ concluded Illinois law would not recognize a foreign common law marriage contracted by its own domiciliaries (*id* at 4–5).

ALJ Stillerman's decision concluded with the following findings (*id.* at 6):

4. The claimant and wage earner were, at all times during the years they lived together, domiciled in the State of Illinois, and the wage earner was domiciled in the State of Illinois at the time of his death.

5. The claimant and wage earner never went through a ceremonial marriage, valid or otherwise, were never domiciled in a state recognizing common-law marriage, were never validly married under Illinois law, and the claimant would not be found to be the widow or inherit as such by the courts of Illinois.

6. The claimant and wage earner could not and did not effectuate a validly contracted common-law marriage in any other jurisdiction or state.

7. The claimant is not the widow of the wage earner within the meaning of section 216(h)(1)(A) of the Social Security Act.

Those and ALJ Stillerman's other findings and conclusions were adopted by the Appeals Council, so the decision became Secretary's.

Lynch's Arguments

Lynch contends she and James established a valid common law marriage through their brief visits to the states of Pennsylvania and Georgia and the District of Columbia. Under the laws of each of those jurisdictions, a couple are married if they (1) have agreed with the present intent to form a marital relationship and (2) later hold themselves out in that state as married with any degree of cohabitation (see, e.g., *In re Estate of Gavula*, 490 Pa. 535, 540, 417 A.2d 168, 171 (1980)). Lynch says Illinois law, as codified in Ill. Act § 213, would recognize her foreign common law marriage.[6]

Illinois' Recognition of Foreign Common Law Marriages

At the outset it is profitable to identify which aspects of this inquiry are not in dispute. First, Lynches were Illinois domiciliaries throughout their relationship (Lynch Mem. 1). Illinois law thus governs whether they were married. Second, Illinois does not recognize common law marriages between its citizens when contracted within this state (Ill. Act § 214).

This case therefore turns on the interpretation of Ill. Act § 213, which governs Illinois' recognition of marriages that occur outside its jurisdiction.[7] This opinion will assume arguendo that Lynches did establish a common law marriage under the law of one or more of Pennsylvania, Georgia and the District of Columbia by thier visits.[8]

Nonetheless this Court concludes Illinois law would not recognize such a common law marriage contracted by Illinois domiciliaries in a foreign jurisdiction.

When the Illinois General Assembly enacted the Illinois Act in 1977, it was not writing on a clean slate. Illinois had prior statutory codifications governing marriages (see the pre-1977 Ill. Rev. Stat. ch. 89, ¶¶1 ff.) and considerable common law on the subject. Smith-Hurd's Historical and Practice Notes published with Ill. Act § 213 indicate the section was not meant to be a break with the past (S.H.A. ch. 40, ¶213, at 62–63):

> This section, although new to Illinois statutory law, continues the prior common law of this State.

At least three pre-Illinois-Act cases considered whether Illinois would recognize foreign common law marriages of its own domiciliaries—and all those cases gave a negative answer to that question.

Enoch involved Illinois domiciliaries who had spent approximately two weeks in Colorado, a trip offered to prove the existence of a common law marriage (52 Ill. App. 2d at 48–49, 201 N.E2d at 687). Enoch held Illinois' prohibition on common law marriages would follow its citizens to another state and therefore rejected the claimed common law marriage in Colorado (id. at 52–53, 201 N.E.2d at 689). In re Estate of Stahl, 13 Ill. App. 3d 680, 682–83, 301 NE.2d, 82, 83–84 (1st Dist. 1973) reached that same result, refusing to recognize a Texas common law marriage by a couple domiciled in Illinois.

One earlier case (though its discussion of the issue was dictum) is of particular significance, for reasons discussed later in this opinion. *Peirce* v. *Peirce*, 879 Ill. 185, 89 N.E.2d 990 (1942) upheld a Nevada common law marriage because the parties were Nevada domiciliaries during their one month spent together in that state (*id.* at 190–93, 39 NE.2d at 993).[9] In the course of its opinion, the Illinois Supreme Court distinguished the cases that later served as the underpinnings for *Enoch* and *Stahl (id.)*:

> The rule [that a common law marriage is void in Illinois, even if performed in some other jurisdiction] is limited to the situation where the parties whose marriage is sought to be upheld in Illinois were, at the time of the marriage, domiciled in Illinois, although the marriage occurred in another state.

Peirce, id. (citations omitted) confirmed both that rule and the controlling principle "that the marital

[6] Lynch also alleged in her Amended Complaint before this Court that Secretary's denial of her benefits violated the Fifth Amendment's Equal Protection Clause (Amended Complaint ¶11). However, Lynch has not pursued that challenge and has not raised it as a defense to Secretary's summary judgment motion.

[7] Secretary's memorandum to this Court also emphasizes Ill. Act § 216, but it is seriously flawed in its analysis. Its repeated refrain (Secretary Mem. 6 [in two places], 7, 8, 9) is that Lynches' claimed common law marriage was "null and void" because it ran afoul of Ill. Act § 216:

> That if any person residing and intending to continue to reside in this state and who is disabled or prohibited from contracting marriage under the laws of this state, shall go into another state or country and there contract a marriage prohibited and declared void by the laws of this state, such marriage shall be null and void for all purposes in this state with the same effect as though such prohibited marriage has been entered into in this state.

That argument of course misses the obvious point that there was nothing at all that "disabled or prohibited [Lynches] from contracting marriage under the laws of this state": They were not (say) first cousins, who could not validly marry here (Ill. Act § 212) and would have to travel elsewhere to escape the taint of illegality. Had Lynches appeared before a judge or other person authorized to solemnize marriages in Illinois, they were perfectly competent to have regularized their relationship as an Illinois-recognized marriage. Thus Ill. Act § 216 is simply inapplicable to Lynches' situation. It may be that its statutory provision manifests the same kind of legislative attitude toward Illinois domiciliaries as the judicial attitude reflected in the case law discussed later in the text—a public policy against any change in Illinoisans' marital status by other jurisdictions if Illinois would not work the same change under the same circumstances. But Secretary is simply wrong in viewing Ill. Act § 216 as dispositive (or even applicable).

[8] Secretary Mem. 6 n. 3 does not altogether concede that a brief sojourn suffices to establish a common law marriage in those jurisdictions. This opinion need not reach that issue, because resolution of the case rests on Illinois' refusal to accept such a marriage in any event. However, it is worth nothing that while some states require more than a brief visit to establish a common law marriage there (see In re Estate of Enoch, 52 Ill. App. 2d 39, 53–54, 201 N.E.2d 682, 689–90 (1st Dist. 1964) (discussing Colorado law)), other states—including one at issue here—would find a common law marriage based on such limited contacts (see e.g., Renshaw v. Heckler, 787 F. 2d 50, 53 (2d Cir. 1986), holding New York would recognize a Pennsylvania common law marriage from periodic visits).

[9] In *Peirce, id.* the couple's *Illinois* sojourn was a temporary one ("No intention to make Illinois their residence appears from the record").

status is governed by the law of the State of domicile."

Lynch seeks to avoid the impact of all that earlier case law by arguing that Ill. Act section 213 incorporates a broader policy for the recognition of foreign marriages, including common law marriages. But what that section says is that all foreign marriages valid where executed will be valid in Illinois *except* where such recognition is "contrary to the public policy of this State." Thus the issue hinges on whether the purported marriage in this case violates Illinois public policy.[10]

Lynch relies heavily on a statement in the Historical and Practice Notes to Ill. Act § 213:

The public policy exception does not, however, apply to common law marriages.

But as the Appeals Council Decision at 2 pointed out, that statement must be taken in the larger context of the Historical and Practice Notes, which go on to say:

> Although common law marriages which are validly contracted in other states are considered contrary to Illinois public policy such marriages are recognized as valid in Illinois, unless contracted in evasion of Illinois law. *Peirce* v. *Peirce*, 379 Ill. 185, 39 N.E.2d 990 (1942); *Acklin* v. *Employees Benefit Ass'n*, 222 Ill. App. 369 (4th Dist. 1920). This does not alter the rule that common law marriages contracted in Illinois after June 30, 1905, are invalid. Section 214. See *Hewitt* v. *Hewitt*, 77 Ill. 2d 49, 394 N.E.2d 1204, 31 Ill. Dec. 827 (1979).

As the Appeals Council then noted (Decision at 3), the Notes' citation of *Peirce* in that context is significant. It plainly indicates the "marriages recognized as valid in Illinois" because "validly contracted in other states" are those foreign common law marriages contracted by *non-Illinois* domiciliaries. Despite Illinois' policy against such marriages, they will be recognized when couples later move to Illinois.[11] But the *Peirce*-confirmed policy against such marriages by *Illinois* domiciliaries cannot fairly be viewed as having been questioned—let alone changed—by the Notes.

Lynch makes a valiant effort to rebut that conclusion—but an effort lacking precedential support. Lynch R. Mem. 6 argues that Illinois' refusal to recognize foreign common law marriages contracted "in evasion of Illinois law" is intended to cover only "Illinois couples [who] were aware of Illinois law and *intended* to evade it in contracting a foreign marriage" (emphasis in original). Lynch says she and James were unaware that Illinois did not accept common law marriages and did not make their out-of-state trips with the intent of evading Illinois' prohibition.

That offered distinction finds no support in the case law. There is no indication Illinois courts would accept such a "pure heart" defense to the invalidation of such foreign marriages. True enough, the facts of cases such as *Stahl* and *Enoch* suggest the parties may have been aware of the Illinois ban on common law marriages. However, the discussion in those cases wholly ignores that element of the parties' intent. In fact, *Stahl* specified the narrow inquiry required to determine the validity of a foreign common law marriage (13 Ill. App. 3d at 682, 301 NE.2d at 83, after citing and quoting *Peirce* to the identical effect):

> Thus, we need only focus on the single issue of the domicile of the parties.

Peirce indeed focused solely on the parties' domicile, ignoring any issue of intent to violate Illinois law (379 Ill. at 190–93, 39 NE.2d at 993). Although the *Peirce* discussion of the grounds for invalidating foreign common law marriages could be considered dictum, it has been generally recognized as authority for the limitation on the recognition of foreign marriages (see, e.g., 26 I.L.P. *Marriages* § 5, at 211 & nn. 26–27).

Obvious difficulties would be created by Lynch's interpretation of Ill. Act § 213. Those problems would go beyond simply the encouragement of "forum shopping" acknowledged by Lynch R. Mem. 6. Courts interpreting Illinois law would have the daunting task of divining the intent and knowledge of those seeking to establish a common law marriage based on a "brief sojourn" theory. Such inquiries (almost invariably made long after the fact, and often with one of the "marital" partners already dead) would encourage self-serving statements of innocence and ignorance—with no objective means of either confirmation or impeachment. It is no accident that the fear of perjury played a significant part in leading the majority of states to prohibit common law marriages in the first place (see 52 Am.Jur.2d *Marriage* § 46 ("a fruitful source of perjury and fraud—to be tolerated and not encouraged")). Requiring such judicial inquiries would certainly undermine the stability and predictability of the property and personal relationships involved in marriages.

Secretary is also correct that the establishment of marriages by mere visits to appropriate jurisdictions could significantly erode Illinois' prohibition on common law marriages. Validity of those marriages would turn on the happenstance of which state a couple chooses to visit (however briefly). Illinois' continuing policy against establishing a legal marriage relationship without the required formalities was reconfirmed not only by the passage of the Illinois Act but by the post-Act decision in *Hewitt* rejecting mutual property rights between unmarried cohabitants. *Hewitt's* denial of the plaintiff's claim was based in part on the fear that recognition of the claim would have the practical effect of reinstating common law marriage, a prospect that had been clearly rejected by the General Assembly in adopting the Illinois Act (77 Ill.2d at 61–66, 394 NE.2d at 1209–11, 31 Ill.Dec. at 832).

In sum, this Court must agree with Secretary that Illinois would not recognize the existence of a common law marriage based on brief stays by Illinois domiciliaries in a state that permits such marriages. Secretary is thus correct in finding Lynch was not James' widow for purposes of entitlement to OASDI benefits.

Conclusion

This Court's role is limited to determining whether Secretary's reading of Illinois law was correct. On that score the Illinois General Assembly and courts have spoken with a clear voice, deciding that (1) common law marriages cannot be established in Illinois and (2) the State will not recognize such marriages contracted elsewhere by its own citizens. It is not for this Court to question whether the course pursued by Illinois law is the correct one in a policy sense or whether Congress is correct to defer to that policy for the eligibility determination for Social Security benefits in this case. Under the law as it stands, Lynch is not eligible for widow's insurance benefits.

There is no genuine issue of material fact (in the outcome-determinative sense), and Secretary is entitled to a

[10] Lynch R. Mem. 5 places great emphasis on the notes of the Commissioners on Uniform Laws to section 210 of the Uniform Marriage and Divorce Act, on which Ill. Act section 213 was based. That analogy is of limited use, however, and may even cut the other way. Illinois' express public policy exception to the recognition of foreign marriages is not contained in the Uniform Act. It is familiar doctrine (and common sense) that such substantial changes in language from a uniform law carry with them intended changes in meaning. Because the legislature has mandated that Illinois public policy will specifically override the full-faith-and-credit approach of Uniform Act section 210, the commentaries on the latter cannot carry the day against evidence of a contrary Illinois public policy.

[11] As for the two other cases cited in the quoted excerpt from the Notes, *Acklin* involved the validity in Illinois of a common law marriage contracted by Missouri residents in Missouri (222 Ill. App. at 373), while *Hewitt* concerned property rights potentially acquired between unmarried cohabitants (and is discussed later in the text of this opinion).

judgment as a matter of law. Lynch's motion for summary judgment is denied, and Secretary's motion for summary judgment is granted. This action is dismissed.

[FR Doc. 90-26552 Filed 11-8-90; 8:45 am]

BILLING CODE 4190-29-M

[Social Security Ruling SSR 90-6]

Representative Payee—Disappearance of Beneficiary—Restriction Against Payment of Benefits to Conservator

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 90-6. This Ruling, which is based on an opinion of the Office of the General Counsel, concerns the legality of paying benefits to the court-appointed conservator of a beneficiary who has disappeared.

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: John W. Modler, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-1713.

SUPPLEMENTARY INFORMATION:

Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings are based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

In accordance with 20 CFR 422.418, all references to individuals or specific businesses involved have been deleted from the Ruling so as not to disclose confidential information, unless this information is already a matter of public record.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: October 23, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 205(j) and 207 of the Social Security Act (42 U.S.C. 405(j) and 407) Representative Payee—Disappearance of Beneficiary—Restriction Against Payment of Benefits to a Conservator

20 CFR 404.2001

After a beneficiary disappeared, the Social Security Administration (SSA) suspended her benefits. A State court then appointed the beneficiary's son as her conservator, and issued an order giving the conservator full power and authority to take possession of and hold all property of the beneficiary. On the basis of this appointment and the court's order, the son requested SSA to pay his mother's benefits to him on her behalf. The Secretary, however, is not bound by a decision of a State court in a proceeding to which he was not a party, and need not consider the adjudication of such a court if, as in this case, an issue was not genuinely contested before it by parties with opposing interests. Moreover, according to section 207 of the Social Security Act (the Act), the right to receive benefits cannot be assigned or transferred and shall not be subject to any form of legal process. Generally, the payment of benefits to someone other than a beneficiary is appropriate, as authorized by section 205 of the Act and provided in 20 CFR 404.2001, if the beneficiary is not able to manage or direct the management of benefit payments in his or her interest. There is no legal authority, however, for making representative payment if the beneficiary has disappeared. Therefore, the beneficiary's son had no grounds for attempting to compel SSA to pay his mother's benefits to him on her behalf. *Held*, under the circumstances in this case, the Secretary was justified in suspending the beneficiary's benefits until such time as her status or whereabouts have been determined.

A question has been raised as to whether a conservator appointed under State law can compel SSA to pay to him the benefits due a beneficiary who has disappeared and whose present whereabouts are unknown.

The beneficiary was 60 years old when she disappeared on July 27, 1987. She has not been seen by or been in contact with her relatives since the date of her disappearance. There has been no determination by any State or Federal Agency that the beneficiary is dead. The beneficiary's benefit checks dated August 5, 1987, September 3, 1987, October 3, 1987, and November 3, 1987, were cashed subsequent to her disappearance, although it appears that the beneficiary's signature was forged on these benefit checks.

The beneficiary's son was appointed as conservator of the estate and property of the beneficiary on December 7, 1988. By order of the Circuit Court of Escambia County, Florida, he was given full power and authority to take possession of and to hold all property of the missing beneficiary. Benefit payments were suspended when SSA became aware of the beneficiary's disappearance.

The State court order is the son's apparent authority for his belief that he can receive benefits on behalf of his mother. However, the Secretary is not bound by a decision of a State court in a proceeding to which he was not a party, and need not consider the adjudication of such a court if, as in this case, an issue was not genuinely contested before it by parties with opposing interests. SSR 83-37c (C.E. 1981-1985, p. 37) adopting *Gray* v. Richardson, 474 F.2d 1370 (6th Cir. 1973); *Cain* v. *Secretary of Health, Education, and Welfare*, 377 F.2d 55 (4th Cir. 1967); *Cruz* v. *Gardner*, 375 F.2d 453 (7th Cir. 1967), *cert. denied*, 389 U.S. 886 (1967). Further, subject to exceptions which are not applicable here, section 207 of the Act, 42 U.S.C. 407, specifically provides that the right to receive benefits cannot be assigned or transferred and shall not be subject to any legal process.

The payment of benefits is personal to the beneficiary. The payment of benefits to anyone other than the entitled individual is governed by the representative payee provisions of section 205 of the Act and 20 CFR 404.2001 *et seq*. Generally, representative payment is appropriate if the beneficiary is not able to manage or direct the management of benefit payments in his or her own interest. 20 CFR 404.2001. There is no authority for making representative payment if the beneficiary has disappeared or is believed to be deceased. If the subject beneficiary is deceased as her son suspects, no benefits are payable on her behalf effective with the month of her death.

Under the circumstances in this case, the Secretary was justified in suspending the beneficiary's benefits until such time as her status or whereabouts have been determined. Accordingly, the beneficiary's son had no legal basis for attempting to compel SSA to pay his mother's benefits to him on her behalf.

[FR Doc. 90-26550 Filed 11-8-90; 8:45 am]

BILLING CODE 4190-29-M

[Social Security Ruling SSR 90-4a]

Supplemental Security Income—Unearned Income—Value of Lodging Furnished for Employer's Convenience on Employer's Premises as a Condition of Employment

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 90-4a. This Ruling is based on a decision made by the Appeals Council of the Social Security Administration. It provides that the value of lodging furnished by an employer to an employee for the employer's convenience on the employer's premises as a condition of employment constitutes unearned income for supplemental security income payment purposes.

EFFECTIVE DATE: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: John W. Modler, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-1713.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings are based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

In accordance with 20 CFR 422.418, all references to individuals or specific businesses involved have been deleted from the Ruling so as not to disclose confidential information, unless this information is already a matter of public record.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

October 26, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 209(r) and 1612(a) of the Social Security Act (42 U.S.C. 409(r) and 1382a(a)) Supplemental Security Income—Unearned Income—Value of Lodging Furnished for Employer's Convenience on Employer's Premises as a Condition of Employment

20 CFR 404.1043(b), 416.1110(a), 416.1120, and 416.1140

The claimant, a supplemental security income recipient, lives in an apartment which rents for $550 per month. She pays only $350. The landlord, a property management company, stated that the claimant pays a reduced rent because she collects rent payments from the other tenants in the apartment complex. The property manager, her employer, requires the claimant to reside at the apartment complex to perform the rent collection services. Held: The $200 is unearned in-kind income because it is not wages for the Social Security retirement program's earnings test, and, thus, is not earned income under 20 CFR 416.1110(a). Accordingly, the presumed value rule (20 CFR 416.1140) applies in calculating the claimant's supplemental security income.

The issue before the Appeals Council is whether the $200 reduction in rent the claimant receives as the apartment rent collector is earned or unearned income for purposes of calculating her supplemental security income benefits.

In late 1987, the Social Security Administration notified the claimant, a supplemental security income recipient, that it intended to decrease the amount of her monthly supplemental security income payment under the "presumed value rule" at 20 CFR 416.1140 because she was paying less than fair market value for her apartment. The claimant disagreed with the finding. She stated that her monthly rent was $350 rather than the usual $550 because she collects rents from the other tenants for the property manager.

The Administrative Law Judge found that the $200 per month in-kind income was earned income subject to the earned income exclusions.

The Appeals Council does not adopt the findings and conclusions of the Administrative Law Judge.

Subsequent to the Administrative Law Judge's decision, the Apeals Council received information from the property manager confirming that the claimant had resided at her present address since November 1987 and that she pays $200 less in rent because of her rent collection services. The property manager's office stated that the claimant is required to reside on the premises to perform the rent collection duties and that this is an employer-employee relationship.

The regulations at 20 CFR 416.1110(a) state that wages for supplemental security income purposes are the same as wages for the Social Security retirement program's earnings test. Wages for the earnings test, with some limited exceptions which do not apply here, are the same as wages for the purpose of Social Security coverage. The Social Security Act, section 209 (42 U.S.C. 409), and regulations at 20 CFR 404.1043(b) exclude from wages the value of employer-furnished lodging, if, as pertinent in the claimant's case, the lodging is furnished on the employer's business premises for the convenience of the employer and the employee is required to accept lodging on the employer's business premises as a condition of employment. Thus, the $200 value in lodging is not in-kind earned income under 20 CFR 416.1110(a).

Pursuant to the Social Security Act, section 1612(a)(2) (42 U.S.C. 1382a(a)(2)), and the regulations, 20 CFR 416.1120, income which is not earned income is unearned income. Accordingly, the Appeals Council finds that the $200 value of lodging the claimant reveives is in-kind unearned income, and that the presumed value rule set forth at 20 CFR 416.1140 applies in calculating the claimant's supplemental security income montly payment rate.

[FR Doc. 90-26551 Filed 11-8-90; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-1917; FR-2606-N-97]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: November 9, 1990.

ADDRESS: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal Buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: November 1, 1990.

Audrey E. Scott,

Deputy Assistant, Secretary for Program Development.

[FR Doc. 90-26357 Filed 11-8-90; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-202-00-4120-09]

Availability of Final Bull Mountains Exchange Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the final bull mountains exchange environmental impact statement.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969, a Final Environmental Impact Statement (EIS) has been prepared for the proposed Bull Mountains exchange of selected federal coal lands for high-value recreation and wildlife private lands offered by Meridian Minerals Company. The EIS describes an analyzes the proposed exchange (BLM's preferred alternative) as well as a coal-for-coal alternative, a leasing alternative and a no-action alternative. The Peabody coal-for-coal alternative was dropped from consideration. The EIS addresses the impacts of development of the coal as a small room and pillar underground mine producing 0.5 million tons of coal per year. A 3.0. million tons of coal per year longwall underground mine is analyzed as the maximum development scenario. A generic railroad to haul to the coal is also addressed.

ADDRESSES: Copies of the EIS will be available at each public library located in Musselshell, Yellowstone, Rosebud, Madison, Custer, Beaverhead, Deer Lodge and Carbon counties. In addition, copies will be available at libraries in Billings, Worden, Butte, Ennis, Colstrip, Forsyth, Helena, Miles City and Roundup. Copies will be available upon request from the Miles City District Office, P.O. Box 940, Miles City, Montana, 59301; telephone (406) 232-4331. Public reading copies will available for review at the following BLM locations:

Bureau of Land Management, Office of External Affairs, Main Interior Building, room 5600, 18th and C Streets, NW., Washington, DC 20240

Bureau of Land Management, Office of External Affairs, Montana State Office, 222 North 32nd Street, Billings, Montana 59107

Bureau of Land Management, Miles City District Office, West of Miles City, Miles City, Montana 59301

Bureau of Land Management, Butte District Office, 106 North Parkmont, Butte, Montana 59702

Bureau of Land Management, Dillon Resource Area, Obey Building, Dillon, Montana 59725

Bureau of Land Management, Garnet Resource Area, 3255 Fort Missoula Road, Missoula, Montana 59801

Bureau of Land Management, Billings Resource Area, 810 East Main Street, Billings, Montana 59105.

Background information and maps used in developing EIS are available at the Montana State Office, the Miles City and Butte District Offices, and the Big Dry, Billings, Headwaters and Dillon Resource Area Offices.

DATES: A public hearing will be held on November 27, 1990 at 7 p.m. at the Central School Multipurpose Room, Sixth Avenue and Second Street, Roundup, Montana. The purpose of the public hearing will be to receive public comment on the public interest factors of the proposed exchange. Individuals wishing to testify may be limited time-wise to insure all parties are afforded an opportunity to speak.

FOR FURTHER INFORMATION CONTACT: Bill Matthews, Project Manager, Miles City District Office, P.O. Box 940, Miles City, Montana 59301, telephone: (406) 232-7000.

SUPPLEMENTARY INFORMATION: Changes based on public comments and concerns have been incorporated into the Final EIS. Written comments and oral comments from the public meetings and the Bureau of Land Management's responses to these comments are presented in chapter 5 of the EIS. Revisions were made to the "Hydrology", "Subsidence", and "Socioeconomics" sections for the selected coal lands. The resource sections for the "offered lands" have also been expanded. The priority 4 offered lands in Custer County that were inadvertently sold by Glacier Park Company have been replaced by additional lands in Carbon County. The Peabody coal-for-coal alternative has been dropped from consideration. The Final EIS incorporates all changes and revisions to the Draft EIS and has been printed in its entirety.

The Final EIS analyzes the proposed action, *i.e.*, the exchange of selected Federal coal lands to Meridian Minerals Company for high-value recreation and wildlife offered lands. The proposed action is BLM's preferred alternative. A coal-for-coal exchange alternative, a leasing alternative, and a no-action alternative are also addressed.

The proposed action (Preferred-Alternative A) is to exchange 3,674.36 acres of BLM administered federal coal for 9,873.2 acres of high-value recreation and wildlife lands offered by Meridian Minerals Company. The federal coal reserves in the exchange application total 54.5 million tons of which 43.6 million tons are recoverable by a longwall mining operation and 27.3 million tons are recoverable by a room-and-pillar mining operation. The fair market value of the federal coal is $730,000. In return for the federal coal under consideration for exchange, BLM selected priority acquisition and replacement lands with a fair market value of $1,149,700. These lands have a minimum value that BLM would accept in an exchange for the federal coal.

Under the mirror image coal-for-coal exchange (Alternative B), the federal and Meridian coal in the project area would be split into two logical mining units of approximately equal size and value. Meridian would get one unit, BLM would get the other unit. About 32.7 million tons of in-place federal coal in the southern half of the projected area would be exchanged for 30.5 million tons of in-place Meridian coal in the northern half of the project area. This alternative would provide a block of private coal of 70.8 million tons in the south half and a block of federal coal of 60.2 million tons in the north half.

Under the leasing alternative (Alternative C), BLM evaluated the federal coal being considered for exchange as well as some state and other federal coal lands. The federal coal being considered for exchange could be leased competitively. Since the Coal Production Region is now decertified, leasing could occur through the lease-by-application process.

Current market conditions indicate that the Bull Mountains coal would not become economically feasible for development until market conditions approached a $20 to $30 minimum selling price (1990 dollars). This would not occur until twenty to forty years in the future. Using a mid range of these values ($25 and 2020), royalty stream flows were calculated. A 0.5 million tons of coal underground mine would generate $13,367,592 in royalty payments over a forty year period with a discounted value of $176,941 (1990 dollars). A 3.0 million tons of coal underground mine would generate $76,622,000 in royalty payments over the forty year period with a discounted value of $1,008,208 (1990 dollars).

If BLM were able to lease the federal coal immediately and it was developed with a $15 sale price, a 0.5 million tons of coal per year underground mine would generate $7,985,628 in royalty payments over the forty year period with a discounted value of $1,676,763 (1990 dollars). A 3.0 million tons of coal per year underground mine generates $45,773,000 in royalty payments over the same forty year period with a discounted value of $9,554,192 (1990 dollars).

The No Action (Alternative D) would continue present management as it exists now for all the lands. It is in essence a two-part no action alternative, *i.e.*, denial of the exchange(s) and denial of leasing. There would be no development of the federal coal under this alternative.

Should BLM deny the exchanges, the Bull Mountains federal coal lands included in the exchange application would remain in public ownership and would not be developed in the foreseeable future. The offered recreational properties would remain in private ownership as would the private coal.

Should BLM deny leasing in the Bull Mountains, the federal coal lands would still remain in public ownership for development by future generations. There would be no immediate coal development unless it was done on private coal lands.

A comparison of the net revenues generated by Alternatives A (exchange) and C (leasing) for the three million-ton mine scenarios shows Alternative A would generate $291.3 million in total net revenues to all levels of government through the year 2025. Alternative C would generate $564 million in total net revenues through the year 2054. However, the mine in Alternative C would not begin until 2020 so the net revenues must be discounted over a much longer period of time than those in Alternative A. The present value of the net revenues discounted to 1990 are $64.7 million for Alternative A and $7.6 million for Alternative C.

Public participation has occurred throughout the EIS process. A Notice of Intent to conduct scoping and prepare an EIS was filed in the **Federal Register** in May 1988. Public meetings for comment on the Draft EIS were held in Noember and December 1989 in Roundup, Billings, and Butte, Montana. Over 600 written comments on the Draft EIS were received. The Final EIS concludes BLM evaluation of the proposed exchange and alternatives. A decision will be made after 30 days and recorded in a Record of Decision which will be made available to the public.

Sandra E. Sacher,

Associate District Manager, Miles City District.

[FR Doc. 90-25709 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-84-M

[ID-020-01-4760-02]

Burley District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting for Burley District Advisory Council.

SUMMARY: Notice is hereby given that the Burley District Advisory Council will meet on December 5, 1990. The meeting will convene at 9 a.m. in the Conference room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items are: (1) District Budget Process (2) Challenge Cost Sharing Process (3) Update on Murtaugh/Minidoka/German Lake Hazardous Material Sites (4) Forestry Program Report (5) District Normal Year Fire Rehab. Plan (6) District Volunteer Program (7) Goose Creek Allotment Riparian Update and Recommendations.

The meeting is open to the general public. The comment period for persons or organizations wishing to make oral statements to the Council will begin at 11 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, prior to the start of the meeting. Depending upon the number of persons wishing to make statements, a per time limit may be established by the District Manager. Written statements may also be filed.

Minutes of the Council meeting will be maintained in the District Office and will be available for public inspection during regular business hours.

DATES: December 5, 1990.

ADDRESSES: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Gerald Quinn, Burley District Manager, (208) 678-5514.

Dated: November 2, 1990.

Gerald L. Quinn,

District Manager.

[FR Doc. 90-26540 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-GG-M

[NV-930-91-4212-11; Nev-051093]

Reconveyance of Title and Order Providing for Opening of Lands; Nevada

October 31, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has accepted title to the land described below. The land will be opened to the public land laws, including the mining laws. The land has been and will remain open to mineral leasing.

DATES: December 10, 1990.

ADDRESSES: Comments should be addressed to the State Director, Bureau of Land Management (NV-943.2), P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702-785-6526.

The following described land was transferred to Humboldt County on November 19, 1962, for park purposes pursuant to the Recreation and Public Purposes Act, as amended. The County determined that the land could not be developed in accordance with the plan of development and quitclaimed the land back to the United States on November 16, 1987:

Mount Diablo Meridian

T. 37 N. R. 38 E.,
Sec. 16, NW¼, W½NE¼.

The United States has accepted title to the above described land. Said land regained public land status on October 29, 1990.

At 10 a.m. on December 10, 1990, the land will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 10, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on December 10, 1990, the land will be open to location and entry under the United States mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to mineral leasing.

Fred Wolf,
Acting State Director.

[FR Doc. 90-26541 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-HC-M

[E-930-1-4212-13; MTM 59144]

Order Providing for Opening of Public Land to Mineral Leasing in Missoula and Granite Counties, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open to applications and offers the leasable mineral estate on certain lands that were reconveyed to the United States in an exchange that was completed on April 9, 1987, under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA). The oil and gas rights were reserved to the Grantors in the exchange until the existing private lease expired or was terminated. That lease has expired.

EFFECTIVE DATE: January 9, 1991.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

Opening

At 9 a.m. on January 9, 1991, the leasable mineral estate for the following described lands will be opened to applications and offers under the mineral leasing laws. The lands are already open to the operation of the public land laws and the mining laws.

Principal Meridian, Montana

T. 12 N., R. 15 W.,
Sec. 1, E½SW¼, W½SE¼;
Sec. 12, NW¼NE¼, NW¼, NE¼SW¼, W½SW¼; and
Sec. 13, W½NW¼.

Aggregating 560 acres.

Dated: October 29, 1990.

John E. Moorhouse,
Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 90-26490 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-DN-M

[AZ-020-4212-12; Serial No. AZA 23606]

Realty Action; Gila and Salt River Meridian, AZ

The following described public land under the administration of the Bureau of Land Management has been determined to be suitable for disposal through exchange under section 206 of the Federal Land and Policy Act of 1976, 43 U.S.C. 1716.

Selected Land

Gila and Salt River Meridian, Arizona

T. 15 N., R. 19 E.,
Sec. 14, all.
T. 5 N., R. 19 W.,
Sec. 2, lots 1-4, incl., S½N½, S½.
T. 10 N., R. 16 W.,
Sec. 2, N½N½NE¼.
T. 6 S., R. 23 E.,
Sec. 31, lots 1-7, incl., NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 7 S., R. 23 E.,
Sec. 2, lots 1-4, incl., S½NE¼, N½SW¼NW¼, SE¼NW¼;
Sec. 6, lots 1-6, incl., SW¼NE¼, SE¼NW¼.
T. 14 S., R. 27 E.,
Sec. 16, SE¼NE¼.
T. 14 S., R. 31 E.,
Sec. 2, lots 3 & 4, S½NW¼, SW¼.
T. 14 S., R. 32 E.,
Sec. 19, N½NE¼,
Sec. 20, N½.

3,266.34 acres.

In exchange, the Bureau of Land Management will receive the following described lands from the State of Arizona:

Offered Land

Gila and Salt River Meridian, Arizona

T. 18 N., R. 20 E.,
Sec. 20, all.
Sec. 28, all.
T. 9 N., R. 9 W.,
Sec. 32, lots 1-10, incl., E½NE¼, NW¼NW¼, SW¼SW¼, E½SE¼, SW¼SE¼.
T. 31 N., R. 11 W.,
Sec. 2, S½N½, N½SW¼, SW¼SW¼, SE¼.
T. 33 N., R. 12 W.,
Sec. 32, all.
T. 33 N., R. 13 W.,
Sec. 2, lots 1-4, incl., S½N½, S½.
T. 34 N., R. 12 W.,
Sec. 32, all.
T. 7 S., R. 25 E.,
Sec. 24, that portion lying north of the golf course road.

4,194.40 acres.

The lands transferred from the United States will be conveyed subject to the following reservations:

AZA 006585, a federal aid highway and a reservation of rights-of-way for ditches and canals to the United States, pursuant to the Act of August 30, 1890.

Publication of this notice shall segregate the subject lands from operation of the public land laws, including mining laws, (except for mineral leasing) for a period of two years. This segregation will terminate in two years or when a deed or patent is issued. More detailed information may be obtained from the Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 850027. For a period of 45 days from the date this notice is published in the **Federal Register**, interested parties may submit comments to the Phoenix District Manager at the address listed above. Any adverse comments will be reviewed by the State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Bureau of Land Management.

Dated: November 2, 1990.

Charles R. Frost,
Associate Manager.

[FR Doc. 90-26491 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-32-M

[M-74913; MT-020-4212-21]

Realty Action; Lease in Big Horn County, MT

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Noncompetitive lease of public land in Big Horn County, Montana.

SUMMARY: The following described lands have been examined and identified as suitable for leasing under section 302 of the Federal Land Policy and Management Act (43 U.S.C. 1732) at not less than fair market value:

Principal Meridian

Big Horn County

T. 8 S., R. 39 E.,
Section 22, NESW.
Containing 40 acres.

The purpose of this lease is to authorize the use of public land for stockpiling of topsoil and overburden, construction of a haul road and for drainage control. Lease M-74913 will be offered noncompetitively to Spring Creek Coal Company as the land is adjacent to the Spring Creek coal mine operation. The proposed lease will provide authorized surface use of the public land.

The terms, conditions and reservations of the lease are:

1. The lease will run for a 20-year period to be further evaluated upon expiration.
2. The lands will be leased subject to all valid existing rights of record.
3. All the coal, oil, gas, geothermal and other mineral deposits are reserved together with the right to enter upon the land and prospect for, mine and remove such materials.
4. The United States reserves the right to issue rights-of-way or use permits over the area. Such uses, however, shall not unduly impair the use of such lands for authorized improvements therein.
5. The United States reserves the right to use the public lands or authorize use of the public lands by the general public in any way compatible or consistent with the use authorized by this lease.

DATES: On or before December 24, 1990, interested parties may submit comments to Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM Montana State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Bureau.

FOR FURTHER INFORMATION CONTACT: Pam Loomis, Powder River Resource Area, Miles City, Montana 59301, telephone 406 232-7000.

Dated: October 30, 1990.

Sandra E. Sacher,
Associate District Manager.

[FR Doc. 90-26492 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-DN-M

[ID-942-01-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plats of survey of the following described land, will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., December 14, 1990.

The plat representing the dependent resurvey of portions of the east and north boundaries and subdivisional lines, and the subdivision of section 1, T. 2 S., R. 37 E., Boise Meridian, Idaho, Group No. 788, was accepted October 24, 1990.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines, and original meanders of the right bank of the Blackfoot River, and the subdivision of certain sections, T. 2 S., R. 38 E., Boise Meridian, Idaho, Group No. 788, was accepted October 24, 1990.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries and/or protests concerning the technical aspects of the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: October 31, 1990.

Duane E. Olsen,
Chief Cadastral Surveyor for Idaho.

[FR Doc. 90-26539 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-GG-M

[OR-933-01-4332-09: GP1-014]

Public Review Period for USGS/USBM "Mineral Survey Reports" Prepared for BLM Wilderness Study Areas; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Oregon Bureau of Land Management (BLM) is requesting public review of U.S. Geological Survey (USGS) and U.S. Bureau of Mines Open-File Reports for the following Wilderness Study Areas (WSAs). These WSAs have been preliminarily recommended suitable for inclusion into the National Wilderness Preservation System:

1. Diablo Mountain (OR-1-58), Lake County, Oregon (USGS Open-File Report 90-0513);
2. Gold Creek (OR-3-33) and Sperry Creek (OR-3-35), Malheur County, Oregon (USGS Open-File Report 90-0517);
3. Blue Canyon (OR-3-73) and Owyhee Breaks (OR-3-59), Malheur County, Oregon (USGS Open-File Report 90-0514);
4. Lower Owyhee Canyon (OR-3-110), Malheur County, Oregon (USGS Open-File Report 90-0515);
5. Bad lands (OR-5-21), Crook and Deschutes Counties, Oregon (USGS Open-File Report 90-0511);
6. Soda Mountain (OR-11-17), Jackson County, Oregon (USGS Open-File Report 90-0519).

If the public provides a new interpretation of the data presented in the mineral reports or submits new mineral data for consideration, BLM will send these comments to the USGS. Significant new findings, if any, will be documented in the BLM "Wilderness Study Report" which will be reviewed by the Secretary, the President, and by Congress before final decisions on wilderness designation are made.

Copies of the mineral survey reports are available for review in BLM offices in Portland, Salem, Eugene, Roseburg, Medford, Coos Bay, Lakeview, Burns, Prineville, Vale, and Spokane. These copies are not available for sale or removal from BLM offices. Copies, however, may be purchased from the following address: Books and Open-File Report Section, U.S. Geological Survey, Federal Center, Box 25425, Denver, CO 80225 (303) 236-7476. Payment by check or money order must accompany all orders.

DATES: The public review of the mineral survey reports named in this notice shall conclude on December 28, 1990.

ADDRESSES: Send comments and information to: State Director (920), BLM Oregon State Office, P.O. Box 2965, Porland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Eric Hoffman, Division of Mineral Resources at (503) 280-7039 or David Harmon, Division of Lands and Renewable Resources at (503) 280-7062, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2785, directed the Secretary of Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and from time to time report to the President his recommendations as to the

suitabilty or non-suitability of each area for preservation as wilderness. The USGS and US Bureau of Mines (USBM) are charged with conducting mineral surveys for areas that have been preliminarily recommended suitable by BLM for inclusion into the wilderness system to determine the mineral values, if any, that may be present in such areas.

There are about 2.8 million acres of Wilderness Study Areas identified by BLM in Oregon, of which about 1.3 million acres have been preliminarily recommended as suitable. These 6 reports are part of 35 mineral survey reports that have been prepared by USGS and USBM. One additional mineral survey report will be available for public review in the future.

The BLM Oregon State Director is providing this public review and comment period in order to insure that all available minerals data are considered by Congress prior to making its final wilderness suitability decisions. BLM will review the public comments and will forward to USGS/USBM any significant new minerals data or new interpretations of the minerals data submitted by the public.

The information requested from the public via this invitation is not limited to any specific energy or mineral resource. Comments should be provided in writing and should be as specific as possible and include:

1. The name and number of the subject Wilderness Study Area and USGS/USBM Mineral Survey Report;
2. Mineral(s) of interest;
3. A map or land description by subdivision of the public land survey grid or protracted surveys showing the specific parcel(s) of concern within the subject Wildnerness Study Area;
4. Inforamtion and documents that depict the new data or reinterpretation of data;
5. The name, address, and phone number of the person who may be contacted by technical personnel of the BLM, USGS, or USBM assigned to review the information.

Dated: October 24, 1990.

Eric G. Hoffman,

Acting Deputy State Director for Mineral Resources.

[FR Doc. 90-26543 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-33-M

[ID-943-01-4214-11; IDI-9110]

Proposed Continuation of Withdrawal, Correction; Idaho

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: This notice will correct two errors in the land description for a notice of proposed continuation of withdrawal for the Lost Valley Progeny Test Area.

EFFECTIVE DATE: April 5, 1989.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

The land description in the notice of proposed continuation of withdrawal published on April 5, 1989, page 13748, for the Lost Valley Progeny Test Area is hereby corrected as follows: The fifth line after "Payette National Forest" is corrected to read "SE¼;" and the eighth line is corrected to read "Sec. 20, SW¼NW¼NE¼NW¼, SW¼NE¼".

Dated: October 30, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90-26494 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-GG-M

[MT-930-1-4214-11; MTM 79549, MTM 044188, MTM 060295, and MTM 012788]

Proposed Continuation of Withdrawals; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Department of Agriculture, proposes that the withdrawal of 416.28 acres of National Forest System (NFS) lands withdraw for recreation acreas and an administrative site continue for an additional 20 years. Those lands closed to operation of the general land laws will be opened to such forms of disposition as may by law be made of NSF lands. The lands will remain closed to mining, but have been and would remain open to mineral leasing.

EFFECTIVE DATE: Comments should be received on or before February 7, 1991.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

SUPPLEMENTARY INFORMATION: The U.S. Forest Service proposes that the existing withdrawals of NFS lands identified below be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714. The lands are described as follows:

Principal Meridian

Custer National Forest

[MTM 012788—PLO 1843]

Woodbine Campground

T. 5 S., R. 15 E.,
Sec. 32, E½SW¼, SW¼NW¼SE¼, NW¼SW¼SE¼.

[MTM 044188—PLO 3625]

Woodbine Campground

T. 5 S., R. 15 E.,
Sec. 32, SW¼SE¼NE¼, NE¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, N½SE¼ SE¼.

Lolo National Forest

[MTM 79549—S.O. 12-7-07]

Rock Creek Ranger Station

T. 8 N., R. 17 W.,
Sec. 27, unsurveyed tract.

[MTM 06029—PLO 3403]

Cascade Camp Recreation Area

T. 18 N., R. 25 W.,
Sec. 19, lots 7 and 8.

The areas described aggregate 416.28 acres in Stillwater, Sanders, and Granite Counties.

The withdrawals are essential for protection of the recreation areas and administrative site involved. The withdrawals segregate the lands from operation of the mining laws, but not the mineral leasing laws, and some of the lands are closed to operation of the general land laws. The Forest Service requests no change in the purpose or segregative effect of the withdrawals except that those lands closed to operation of the general land laws be opened.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Chief, Branch of Land Resources, at the address listed above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be condinued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: October 29, 1990.

John E. Moorhouse,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 90-26493 Filed 11-8-90; 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

Alaska Peninsula Federal Lands Hunting Closure

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: By emergency order of the Federal Subsistence Board, caribou hunting on Federal public lands within the following Alaska State Game Management Units is closed to all individuals except the residents listed below:

Unit	Open to
Unit 9(D)	Residents of 9(D) and False Pass.
Unit 10 (Unimak Island Only).	Residents of False Pass only.

This closure is effective from November 5, 1990–March 31, 1991, and is necessary to ensure a healthy population and to provide a subsistence opportunity for qualified subsistence users.

DATES: The emergency closure is effective from November 5, 1990–March 31, 1991.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Subsistence Office, 1011 East Tudor Road, Anchorage, Alaska 99503, telephone (907) 267–1461; or Izembek National Wildlife Refuge, PO Box 127, Cold Bay, Alaska 99571, telephone (907) 532–2445.

SUPPLEMENTARY INFORMATION: As empowered by 50 CFR 100.17(b), the Federal Subsistence Board has closed Federal public lands in Game Management Units 9(D) and 10 (Unimak Island only) to the hunting of caribou from November 5, 1990–March 31, 1991, by all individuals except by those residents listed below:

Unit	Open to
Unit 9(D)	Residents of 9(D) and False Pass.
Unit 10 (Unimak Island Only).	Residents of False Pass only.

Other individuals are prohibited from hunting caribou on said lands. On October 30, 1990, the Federal Subsistence Board took emergency action to amend the Federal subsistence season and bag limit restrictions for caribou in Game Management Units 9(D) and 10 (Unimak Island only). This closure is necessitated by a change in eligibility under state hunting regulations due to *McDowell* v. *State of Alaska*. Prior to that court decision, the State restricted hunting after October 31 to local subsistence users. With the *McDowell* decision eliminating rural preference under State law, the preference for the local subsistence users was also eliminated. A typographical error in the closing date (May 31) in Unit 10 (Unimak Island only) was published in the **Federal Register** (55 FR 27139); this notice also corrects that date to March 31.

Title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture grant a preference in favor of subsistence uses of fish and wildlife resource on public lands. The Southern Alaska Peninsula caribou herd has suffered a rapid decline with poor population recruitment. This action will protect the caribou population as well as provide a subsistence preference for local subsistence users.

Walter O. Stieglitz,

Chairman, Federal Subsistence Board; Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90–26499 Filed 11–8–90; 8:45 am]

BILLING CODE 4310-55-M

Alaska Federal Subsistence Board Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

TIME AND DATE: 8:30 a.m.; November 20, 1990, 8:30 a.m.; December 17, 1990.

PLACE: Captain Cook Hotel, 5th and "K" Streets, Anchorage, Alaska.

STATUS: Parts of this meeting will be open to the public. The public is invited to attend and observe the proceedings. Public testimony on business agenda items only will be accepted at these meetings. The rest of the meeting may be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public: The Board will discuss business relative to management of the Federal subsistence management program on Federal lands. The major categories to be discussed on November 20 include:

a. Correspondence to the Board
b. Environmental Impact Statement Team Report
c. **Federal Register** Announcements
d. Federal Subsistence Board Operations Manual
e. Appeals Proccess
f. Appeals
g. Emergency Regulation Changes

Public testimony will be accepted on items (d) through (g) only.

The major categories to be discussed on December 17 include:

a. Correspondence to the Board
b. Environmental Impact Statement Team Report
c. **Federal Register** Announcements
d. Federal Subsistence Board Operations Manual
e. Rural Determinations

Public testimony will be accepted on items (d) and (e) only.

Portions Closed to the Public: If needed, the Board will discuss business relative to management of the Federal Subsistence Board activities.

CONTACT PERSON FOR MORE INFORMATION: Richard Pospahala, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 267–1461.

Walter O. Stieglitz,

Chairman, Federal Subsistence Board, Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90–26500 Filed 11–8–90; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Cheeseboro Canyon/Palo Comado Canyon, Santa Monica Mountains National Recreation Area; Availability of Draft Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service, Santa Monica Mountains National Recreation Area, has prepared a draft environmental impact statement to assess the impacts of a proposal, set forth by a private development firm, to exchange private properties for lands within the National Recreation Area in order to facilitate the proponent's access to a proposed golf course and residential development on Jordan Ranch in Ventura County, California. The proposed access also involves lands within Los Angeles County, California.

Alternatives evaluated in the draft environmental statement include (1) no action, which would require the proponent to seek other access, and (2) approval of the exchange by the National Park Service which would result in approximately 59 acres of federally-owned land to be exchanged for approximately 864 acres of private lands, all within the boundaries of the National Recreation Area. There are other considerations with this exchange that are detailed in the draft

environmental statement. Approval of the exchange by the National Park Service would constitute an amendment of the National Recreation Area's General Management Plan and associated plans. Evaluation of the specific impacts of the proposed golf course and subdivision on Jordon Ranch is being accomplished through a Ventura County General Plan Amendment Application and its accompanying environmental impact report (EIR), prepared in accordance with the California Environmental Quality Act (CEAQA). The EIR was released for public review period extending from August 29, 1990, to October 29, 1990.

Comments on the draft environmental statement should be directed to the Superintendent, Santa Monica Mountains National Recreation Area, 30401 Agoura Road, suite 100, Agoura Hills, CA 91301, telephone number (818) 597-1036. Comments must be received no later than January 31, 1991. Requests for additional information and/or copies of the statement should also be directed to the above address.

Copies of the draft statement are available for inspection at the park headquarters in Agoura Hills, CA, in libraries located in the park vicinity and at the following address: Western Regional Office, National Park Service, Attn: Division of Planning, Grants and Environmental Quality, P.O. Box 36063, 450 Golden Gate Avenue, room 14033, San Francisco, CA 94102.

Dated: October 26, 1990.

Stanley T. Albright,

Regional Director, Western Region.

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-305 and 306, 303-TA-21, and 731-TA-476 through 482 (Preliminary)]

Steel Wire Rope From Argentina, Chile, India, Israel, Mexico, The People's Republic of China, Taiwan, and Thailand

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701-TA-305 and 306 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), and investigation No. 303-TA-21 (Preliminary) under section 303 of the Tariff Act (19 U.S.C. 1303), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India, Israel and Thailand of steel wire rope,[1] that are alleged to be subsidized by the Governments of India, Israel and Thailand.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-476 through 482 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina, Chile, India, Mexico, the People's Republic of China, Taiwan and Thailand of steel wire rope, provided for in subheadings 7312.10.60 and 7312.10.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value.

As provided in sections 703(a), 733(a) and 303, the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by December 20, 1990.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: November 5, 1990.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202-252-1184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on November 5, 1990, by The Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 291.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

[1] The imported steel wire rope covered by these investigations include ropes, cables and cordage, of iron or steel, other than stranded wire, not fitted with fittings or made into articles, and not made of brass plated wire. Such steel wire rope are provided for in subheadings 7321.10.60 and 7312.10.90 of the Harmonized Tariff Schedule of the United States (HTS) (previously in items 642.14 and 642.16 of the former Tariff Schedules of the United States (TSUS)).

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on November 27, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Diane Mazur (202-252-1184) not later than November 20, 1990, to arrange for their appearance. Parties in support of the imposition of countervailing or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before November 29, 1990, a written brief containing information and arguments pertinent to the subject matter of the investigations, as provided in section 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due November 30, 1990. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties who obtain access to business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than December 3, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due December 4, 1990.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: November 7, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-26714 Filed 11-8-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Date: November 6, 1990.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2) the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) CENEX/Land O'Lakes Agronomy Company
5500 Cenex Drive,
Inver Grove Heights, MN 55077
(2)
(3) Robert J. Broich
P.O. Box 64089,
St. Paul, MN 55164-0089
(4)

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26588 Filed 11-8-90; 8:45 am]

BILLING CODE 7033-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

Roger Ward, Inc., 620 20th Avenue SW., P.O. Box 2108, Minot, ND 58701

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

a. Roger Ward-Minot, Inc., a Delaware corporation
b. Roger Ward-Bismarck, Inc., a Delaware corporation
c. Roger Ward-Dickinson, Inc., a Delaware corporation
d. Roger Ward-Fargo, Inc., a Delaware corporation
e. Roger Ward-San Antonio, Inc., a Delaware corporation
f. Roger Ward-Harlingen, Inc., a Delaware corporation
g. Roger Ward Transportation, Inc., a Delaware corporation
h. Roger Ward Management, Inc., a Delaware corporation.

Sidney L. Strickland,

Secretary.

[FR Doc. 90-26587 Filed 11-8-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31742]

The Ferdinand Corp.—Acquisition and Operation Exemption—the Ferdinand & Huntingburg Railroad Co.; Exemption

The Ferdinand Corporation (FC), a noncarrier, has filed a notice of exemption to acquire and operate the entire rail line owned by The Ferdinand & Huntingburg Railroad Company (Ferdinand), a distance of approximately 6.38 miles, located between Huntingburg and Ferdinand, IN.[1]

Any comments must be filed with the Commission and served on: William H. Davis, The Ferdinand Corporation, P.O. Box 10, Corydon, IN 47112.

FC shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a

[1] FC indicates that currently there are no mileposts on the line to be acquired.

petition to revoke will not automatically stay the transaction.

Decided: October 15, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26448 Filed 11-8-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 365X)]

CSX Transportation, Inc.—Abandonment Exemption—in Suwannee County, FL; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 1.48-mile line of railroad between mileposts AR-669.1 and AR-670.58, at Live Oak, in Suwannee County, FL.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 9, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 19, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by November 29, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 14, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 2, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26449 Filed 11-8-90; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Information Collections Under Review

November 6, 1990.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) an indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 514-4312.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of you intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collections

(1) Performance Report

(2) No form number. Office of Juvenile Justice and Delinquency Prevention (JJDP), Office of Justice Programs.

(3) Annually.

(4) State or local governments. Information is collected to report information from states participating in the JJDP Act Formula Grant Program on activities/performance toward goals stated in states' formula grant plans, used to answer public inquiries and to assist Congress, OJJDP and the states in measuring effectiveness of activities and the status of compliance.

(5) 57 estimated responses at 152 hours per response.

(6) 8,664 estimated annual public burden hours.

(7) Not applicable under section 3504(h).

(1) Juvenile Justice and Delinquency Prevention Act Formula Grant Program Subgrant Award Report.

(2) No form number. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

(3) Other, one-time grantees must submit 30 days after award is made.

(4) State or local governments, non-profit institutions. Used to collect information from public and private subgrant recipients.

(5) 1,239 annual respondents at .5 hours per response.

(6) 620 estimated annual public burden hours.

(7) Not applicable under section 3504(h).

Existing Collection in use Without an OMB Number

(1) Juvenile Justice and Delinquency Prevention Act Formula Grant Program Application Kit; Fiscal Years 1991–1993.

(2) No form number. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

(3) Annually.

(4) State or local governments. This provides state agencies with the instructions and forms necessary to apply for formula grants under the JJDP Act.

(5) 57 annual repondents at 432 hours per response.

(6) 24,624 estimated annual public burden hours.

(7) Not applicable under section 3504(h).

Revisions of Currently Approved Collections

Note: The following information collection is printed in full following this notice.

The Immigration and Naturalization Service is striving to create forms and instructions that are precise and that can be easily understood. Therefore, public comment is especially invited, as well as suggestions regarding the format, contents and public burden associated with the proposed revision to the INS Form I–589, "Request for Asylum in the United States." All written comments FOR THIS FORM ONLY should be directed to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5034, 425 "I" Street, NW., Washington, DC 20536, ATTENTION: Form I–89. Written comments must be received no later than December 21, 1990.

(1) Request for Asylum in the United States.

(2) I–589, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This information will be used to determine if an alien applying for asylum in the United States is classifiable as a refugee and is eligible to remain in the United States. This data will minimize the need to reinterview applicants for asylum.

(5) 80,000 annual respondents at 1.664 hour per response.

(6) 113,120 estimated annual public burden hours.

(7) Not applicable under section 3504(h).

Larry E. Miesse,

Department Clearance Officer, U.S. Department of Justice.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-0086
Request for Asylum In The United States

INSTRUCTIONS

READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM

1. **PREPARATION OF FORM.** Type or print legibly in ink. **Do not leave any questions unanswered.** If any questions do not apply to your personal situation write "none" or "not applicable". If you need more space to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet. One form may include an entire family (husband, wife, and unmarried children under age 21 if they are in the U.S. and are also applying for asylum) and must be accompanied by documentary evidence to establish their relationship to you. Children, married, or age 21 or over must file a separate form.

2. **SUBMISSION OF FORM.** Mail or take this form and supporting documents to the Immigration and Naturalization Service office having jurisdiction over your place of residence. Submit this form in quadruplicate. There are no fees for processing this form.

3. **REQUIRED DOCUMENTS.** Each applicant 14 years of age or older must complete the **Biographic Information Form G-325A** and **Fingerprint Card, FD-258**. Applicants may be fingerprinted by law enforcement officers, outreach centers, charitable and voluntary agencies, or other reputable persons or organizations. The Fingerprint Card (FD-258) on which the prints are submitted, the ink used, and the quality and classifiability of the prints must meet standards prescribed by the Federal Bureau of Investigation. The card must be signed by you in the presence of the person taking your fingerprints, who must then sign his/her name and enter the date in the spaces provided. **It is important to furnish all the information requested on the card.**

4. **PHOTOGRAPH.** Regardless of age, all applicants must submit one photograph taken within 30 days of the date of this application. This photograph should contain a front view of your face, about one 1 inch from chin to top of head.

5. **PASSPORT INFORMATION.** You will be notified to appear for an interview with an Immigration Officer. If you have a passport, you must bring it with you to the interview. If other members of your family are included in your application for asylum, they must also appear for the interview and bring their passports if in their possession.

6. **INTERVIEW.** An immigration officer will interview you and make an evaluation of the propriety of your Asylum claim. You may remain in the United States until a final decision is made on your case.

7. **UNITED NATIONS.** You may, if you wish, forward a copy of your form and other supporting documents to the: Regional Representative of the United Nations, High Commissioner for Refugees, United Nations, 1718 Connecticut Ave., N.W., Suite 200, Washington, D.C. 20009.

8. **SUPPORTING DOCUMENTS.** Background materials, such as newspaper articles, affidavits of witnesses or experts, periodicals, journals, books, photographs, official documents, your own statements, etc., must include explanations from you of their relevance to your personal case and situation. Give full citation of your sources, dates, pages, etc. Attach as many sheets and explanations as necessary to fully explain the basis of your claim. Submit all supporting documents in quadruplicate.

9. **BURDEN OF PROOF.** The burden of proof is upon you to establish that you qualify as a refugee either because you suffered actual past persecution or because you have a well-founded fear of future persecution in your country of nationality or last habitual residence on account of your race, religion, nationality, membership in a particular social group or political opinion, and for this reason you are unable or unwilling to return to or avail yourself of the protection of that country. To persecute is defined as: "to pursue; to harass in a manner designed to injure, grieve or afflict; to oppress. Answer all questions on this form as to "what", "when", "where", "how", "who", and "why" relating to your claim of persecution.

10. **TRANSLATION.** Any document in a foreign language must be accompanied by a translation in English. The translator must certify that he or she is competent to translate and that the translation is accurate.

11. **WITHHOLDING OF DEPORTATION.** This application will be considered concurrently as an application for withholding of deportation under Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253), as amended. If asylum is not granted, you may be eligible for withholding of deportation.

12. **WORK AUTHORIZATION.** You may request permission to work while your asylum application is pending. Generally, work authorization, if granted, will be valid, if renewed as required, at least until a final decision is made on your application. Submit a Form I-765, Application for Employment Authorization, with this form for each person seeking permission to work.

(Tear off this instruction sheet before submitting application)

13. **PENALTY:** Title 18, United States Code, section 1546, provides, ".. Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement - Shall be fined in accordance with this title or imprisoned not more than five years, or both."

14. **REPORTING BURDEN:** Public reporting burden for this collection of information is estimated to average 1 hour and 40 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Department of Justice, Immigration and Naturalization Service (Room 5304), Washington, DC 20536; and to the Office of Management and Budget, Paperwork Reduction Project: OMB No. 1115-0086, Washington, DC 20503.

U.S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-0086
Request for Asylum In The United States

DO NOT WRITE IN THIS BLOCK - FOR INS USE ONLY

Asylum Office:	Basis of Asylum Claim:	Action:
INS-FCO:	1. ☐ Race 2. ☐ Religion 3. ☐ Nationality 4. ☐ Membership in a Particular Social Group 5. ☐ Political Opinion	Asylum: ☐ Granted ☐ Denied Date: _____ Withholding of deportation: ☐ Granted ☐ Denied Date: _____
Received date:		
G-28 or VOLAG #		_____ Adjudicating Officer

1. Name *(Family name in CAPS)* *(First)* *(Middle)*

2. Alien Registration No. *(if known)*

3. Sex: ☐ Male ☐ Female

4. Other names used: *(include maiden name or aliases)*

5. Marital status: ☐ Single ☐ Married ☐ Divorced ☐ Widowed

6. Date of Birth: *(Mo./Day/Yr.)*

7. Address - *in the United States* *(Number and Street, Apt. #)*

(City or Town) *(State/Country)* *(Zip Code)*

8. Place of Birth: *(City or Town)*

(State or Province) *(Country)*

9. Address - *abroad prior to coming to U.S.: (Number and Street, Apt. #)*

(City) *(Province)* *(Country)*

10. Nationality: at Birth: _____ at Present: _____

Other: _____

11. Ethnic Group:

12. Religion:

13. Languages spoken:

14. If stateless, how did you become stateless?

15. Arrival in the U.S.:
Date: *(Mo./Day/Yr.)*
Place: *(City/State)*

☐ I was ☐ I was not inspected

Current Immigration status: *(Visitor, Student, etc.)*

As a: ☐ Visitor ☐ Student ☐ Stowaway ☐ Crewman ☐ Other *(Specify)*

Means of arrival: *(name of vessel or airline and flight #, other)*

Date authorized stay expires: *(Mo./Day/Yr.)*

16. My nonimmigrant visa number is: *(If none, state "none")* _____. It was issued by the U.S. Consul on

(Mo./Day/Yr.) _____ at (City, County) _____

17. Why did you obtain a U.S. Visa? or If you did not apply for a U.S. Visa explain why not:

18. List your spouse and all your sons/daughters:

Name:	A-Number: *(If any or known)*	Sex	Date of birth:	Place of birth:	If in U.S.: Date/Place of Arrival

If in the U.S. are your spouse/children included in your request for Asylum: *(if not explain why)* Spouse: ☐ Yes ☐ No Children: ☐ Yes ☐ No

19. If in the U.S., is your spouse making a separate application for asylum?

☐ Yes (INS office _____ Results (Granted/Denied)

☐ No

Form I-589 (Rev. 10-26-90)N

20. My spouse/children reside: ☐ with me ☐ apart from me *(if apart, explain why)*:

(Number and street and Apt. No.) *(City)* *(Province)* *(Country)*

21. Have you traveled to the United States before? How many times?_____

☐ Yes *(If so, give date, manner of entry, purpose and duration of trip)*

☐ No

22. List all travel or identity documents such as national passport, refugee convention travel document, safe conduct, or national identity card:

Document type	Document number	Issuing country or authority	Date of issue	Date of expiration	Cost	Obtained by whom

23. Date of departure from your country of nationality *(Mo./Day/Yr.)*

24. Was exit permission required to leave your country?

☐ Yes *(Obtained by Whom)*

☐ No *(If not, explain why)*

25. Why did you leave your country of nationality? *(Explain fully)*

26. When you left your home country, to what country did you intend to go?

27. After leaving your home country, have you traveled through or resided in any other country before entering the U.S.?

☐ Yes (If yes, identify each country, length of stay, purpose of stay, address, reason for leaving, and whether you are entitled to return to that country for residence purposes.)

☐ No

28. Have you been recognized as a refugee by another country or by the United Nations High Commissioner for Refugees?

☐ Yes *(If yes, Date*_____ *Country*_____*)*

☐ No

29. Did you apply for asylum in any other country?

☐ Yes (Date_____Country_____Results - Granted/Denied)

☐ No

30. Why did you continue traveling to the U.S.?

31. Did you apply for asylum in the U.S. before?

☐ Yes (Date_____INS office_____Results - Granted/Denied)

☐ No

32. Why are you seeking asylum in the United States? *(Explain fully what is the basis - attach additional sheets as needed)*

33. Have you taken any actions that you believe will result in your persecution in your home country?
(Explain fully, if none, so state - attach additional sheets as needed)

34. Have you or any member of your immediate family ever belonged to or been associated with any organization or group in your home country that is harassed, restricted, intimidated, prohibited, or denounced by the government of your home country; or threatened with or subjected to violence by organized groups not controlled by the government of your home country?

☐ Yes ☐ No

(If yes, provide the following information relating to each organization or group: Name of organization or group, dates of membership or affiliation, purpose of the organization, what, if any, were your official duties or responsibilities, and are you still an active member.)

35. Have you or any member of your family, ever been mistreated by the authorities of your home country/country of nationality or by organized groups within that country? ☐ Yes - If yes, was it mistreatment because of:

☐ Race ☐ Religion ☐ Nationality ☐ Membership in a particular social group ☐ Political opinion ☐ Other

Specify for each instance; what occurred and the circumstances, date, exact location, who took such action against you, what was his/her position in the government or group, reason why the incident occurred, names and addresses of people who witnessed these actions and who could verify these statements. Attach documents referring to these incidents.

☐ No

36. Have you ever been: ☐ *Arrested* ☐ *Detained* ☐ *Interrogated* ☐ *Convicted and sentenced* ☐ *Imprisoned* in any country, including the U.S.?

☐ Yes (If yes, specify for each instance: What occurred and the circumstances, dates, location, duration of the detention or imprisonment, reason for the detention or conviction, what formal charges were placed against you, reason for the release, treatment after release, names and addresses of persons who could verify these statements. Attach documents referring to these incidents, if any).

☐ No

37. If you base your claim for asylum on current conditions in your country, do these conditions affect your freedom more than the rest of that country's population?

☐ Yes *(If yes, explain how and why you think so, how and why it affects you)*

☐ No

38. Were you ever involved in any incidents of persecution against any person because of his/her race, religion, nationality, membership in a particular social group, or political opinion?

☐ Yes *(If yes, describe nature of the incidents and your own involvement)*

☐ No

39. Are you entitled to return to country of issuance of your:
(If not, explain why)

Passport	☐ Yes	☐ No
Other Travel document	☐ Yes	☐ No
Or Identity document	☐ Yes	☐ No

40. Have you returned to your country in the last five (5) years?

☐ Yes *(explain)*

☐ No

41. Would you return to your home country?

☐ Yes

☐ No *(If no, explain why)*

42. What do you think would happen to you if you returned? *(Explain)*

43. Are you registered with a consulate or any other authority of your home country abroad?

☐ Yes *(If yes, give details)*

☐ No *(If no, explain why not)*

44. Is there any additional information not covered by the above questions? *(If yes, explain, attach additional sheets as needed)*

45. Name /address of schools attended	Type of school	From *(Mo./Yr.)*	To *(Mo./Yr.)*	Highest grade completed	Title of degree or certification

46. What specific skills do you have?	47. Social Security No. *(if any)*

48. Relatives in U.S. :

Name	Address	Relationship	Immigration status

49. Other relatives who are refugees outside the U.S.

Name	Relationship	Country where presently located

50. Under penalty of perjury, I declare that the above and all accompanying documents are true and correct to the best of my knowledge and belief.

Signature of applicant _____ Date _____

51. Signature of person preparing form if other than above: I declare that this document was prepared by me at the request of the applicant and is based on information provided by the applicant.

Name/signature _____ Date _____ Address _____

Applicant is not to sign the application below until he or she appears before an officer of the Immigration and Naturalization Service for examination

I_____swear (affirm) that I know the contents of this application that I am signing including the attached documents; that they are true to the best of my knowledge; and that corrections numbered ( ) to ( ) were made by me or at my request and that I signed this application with my full, true name:

_____
(Complete and true signature of applicant)

Signed and sworn to before me by the above-named applicant at_____on_____
(Month) (Day) (Year)

_____
(Signature and title of interviewing officer)

[FR Doc. 90-26584 Filed 11-8-90; 8:45 am]
BILLING CODE 4410-10-C

Bureau of Prisons

Intent To Prepare Draft Environmental Impact Statement (EIS) for the Construction of a Federal Correctional Institution Beckley, Raleigh County, WV

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

AGENCY: U.S. Department of Justice.

SUMMARY:

Proposed Action

The U.S. Department of Justice, Federal Bureau of Prisons has determined that a new Federal correctional institution with an adjacent satellite prison camp is needed in its system. A 250 acre tract of land immediately adjacent to and northwest of the Raleigh County Memorial Airport or other suitable sites, will be evaluated. The proposal calls for the construction of a 750 bed facility to house medium security inmates and a 250 bed camp to house minimum security inmates.

Approximately 125 of the 250 acres would be used for road access, inmate housing, administration and program spaces, and service and support facilities. In addition, exercise areas would be included in the needed acreage.

In the process of evaluating the land, several aspects will receive a detailed examination including: utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources, and socio-economic impacts.

Alternatives

In developing the DEIS, the options of no action and alternative sites for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be numerous opportunities for public involvement in order to determine the issues to be examined. A scoping meeting will be held at a location convenient to the citizens of Beckley. The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, a number of informal meetings have already been held and will be continued by representatives of the Bureau of Prisons with interested community leaders and officials.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

Address

Questions concerning the proposed action and the DEIS can be answered by: Kevin W. McMahon, Site Acquisitioin Specialist, Office of Facilities Development and Operations, Administration Division. Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. Telephone: (202) 514-8698.

William J. Patrick,

Chief, Facilities Development and Operations, Federal Bureau of Prisons, Department of Justice.

[FR Doc. 90-26463 Filed 11-8-90; 8:45 am]

BILLING CODE 4410-05-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Construction of a Metropolitan Detention Center in Washington, DC

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

Proposed Action

The United States Department of Justice, Federal Bureau of Prisons had determined that a new Metropolitan Detention Center (MDC) is needed in its system. The Bureau of Prisons will evaluate three proposed sites located in the District of Columbia for construction of the MDC.

The proposed sites are:

(A) The eastern half (approximately 2 acres) of a 5.4 acre tract of acre tract of land located off New York Avenue NE, and and bounded by "O" and "P" Streets, and North Capitol Street and First Street, NE. The only structures remaining on the site are a former bank building and a large warehouse.

(B) A 2.7 acre triangular shaped vacant parcel of land bounded by New York Avenue, NE., Florida Avenue NE and the elevated CSX and Metrorail tracks. A Sunoco gasoline station adjoins the site and occupies the corner of the tract of land but it not under consideration as part of the proposed site. There are no structures on the site except two advertising billboards.

(C) A 1.8 acre parcel situated off of South Capitol Street, SE., in the unit block of I (Eye) Street, SE. The only structures on the property are a concrete block warehouse structure (known as 70 I Street SE, and the shell of another concrete building. The most recent use of the property was as a salvage yard.

The Federal Bureau of Prisons proposes to construct a 1000 bed detention facility for individuals who are awaiting trial, awaiting sentencing or having other business before the United States District Court. As such, the facility is considered extension of the Federal judiciary and law enforcement activity in the District of Columbia.

It is anticipated that all of the three proposed sites are of sufficient size to provide space for detainee housing, programs, services and support areas as well as administration, staff training and parking.

The Process

In the process of evaluating the three sites several aspects will receive detailed examination including: Utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources and socio-economic impacts.

Alternatives

in developing the DEIS, the options of no action and alternative sites for the proposed facility wil be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be numerous opportunities for public involvement in order to determine the issues to be examined. A scoping meeting will be held at 7 p.m. on Tuesday, November 27, 1990, at the Dunbar High School Auditorium, First and O Streets, NW. The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, a number of public information meetings will be held by representatives of the Bureau of Prisons with interested citizens, officials and community leaders.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

Addresses:

Questions concerning the proposed action and the DEIS can be answered by:

Patricia K. Sledge, Site Acquisition Coordinator, Office of Facilities Development and Operations, Federal Bureau of Prisons, 320 First Street,

NW., Washington, DC 20534, (202) 514-6470.

William J. Patrick,

Chief, Office of Facilities Development and Operations, U.S. Department of Justice.

[FR Doc. 90-26682 Filed 11-8-90; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by the contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

New General Wage Determinations Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume II

Texas:
TX90-63 ..... p. 1156i, p. 1156j.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York:
NY90-7 (Jan. 5, 1990) ..... p.797, p. 799.
NY90-12 (Jan. 5, 1990) ..... p. 851, pp. 852-854.
NY90-13 (Jan. 5, 1990) ..... p. 861, p.863.
NY90-20 (Jan. 5, 1990) ..... p. 908a, p. 908b.

Pennsylvania:
PA90-5 (Jan. 5, 1990) ..... p. 951, p. 952.
PA90-6 (Jan. 5, 1990) ..... p. 965, p. 966.
PA90-9 (Jan. 5, 1990) ..... p. 997, p. 998.
PA90-15 (Jan. 5, 1990) ..... p. 1029, p. 1030.

West Virginia:
WV90-2 (Jan. 5, 1990) ..... p. 1391, pp. 1395-1396.

Volume II

Michigan:
MI90-4 (Jan. 5, 1990) ..... p. 471, pp. 472, 474-475.

Texas:
TX90-3 (Jan. 5, 1990) ..... p. 987, p. 988.
TX90-14 (Jan. 5, 1990) ..... p. 1021, p. 1022.

Wisconsin:
WI90-4 (Jan. 5, 1990) ..... p. 1169, pp. 1170-1172.

Index ..... pp. xxxvii-xl.

Volume III

Nevada:
NV90-1 (Jan. 5, 1990) ..... p. 243, pp. 244-245.
NV90-5 (Jan. 5, 1990) ..... p. 289, p. 290.

Oregon:
OR90-1 (Jan. 5, 1990) ..... p. 309, p. 312.

Washington:
WA90-1 (Jan. 5, 1990) ..... p. 369, p. 373.
WA90-9 (Jan. 5, 1990) ..... p. 431, pp. 432-433.

Index ..... pp. xix-xx.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include

an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC. This 2nd day of November 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-26344 Filed 11-8-90; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 19, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 19, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 22nd day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Akron Catheter (UPWI)	Chippewa Lake, OH	10/22/90	10/09/90	24,966	Surgical catheter.
Bay Chemical Co. (workers)	Bay City, MI	10/22/90	10/05/90	24,967	Sulfuric acid.
Burlington Coat Factory (workers)	Columbus, OH	10/22/90	10/11/90	24,968	Coats.
Dae Yang America, Inc. (workers)	Kutztown, PA	10/22/90	10/02/90	24,969	Athletic shoes.
Donora Sportswear Co., Inc. (workers)	Donora, PA	10/22/90	09/13/90	24,970	Outerwear.
Fairfield Textile (ILGWU)	Fairfield, NJ	10/22/90	10/11/90	24,971	Knit fabric.
Hanlan & Gregory (USWA)	Pittsburgh, PA	10/22/90	10/09/90	24,972	Iron & steel.
Kellwood Co. (company)	Clinton, OK	10/22/90	10/02/90	24,973	Bed coverings.
Pantasote, Inc. (UTWA)	Lincoln Park, NJ	10/22/90	10/06/90	24,974	Trays.
Pope & Talbot, Inc. (workers)	Port Gamble, WA	10/22/90	10/08/90	24,975	Lumber.
R.W.M&M Apparel & Jean Factory (workers)	Lebanon, TN	10/22/90	10/10/90	24,976	Sportswear.
R.W.M&M Apparel & Jean Factory (workers)	Holland, KY	10/22/90	10/10/90	24,977	Sportswear.
R.W.M&M Apparel & Jean Factory (workers)	Scottsville, KY	10/22/90	10/10/90	24,978	Sportswear.
Sharfstein & Feigin Furs (workers)	New York, NY	10/22/90	09/27/90	24,979	Coats.
Tri County Cedar (company)	Cosmopolis, WA	10/22/90	09/27/90	24,980	Shake & Shingles.
Umetco Minerals Corp. (workers)	Blanding, UT	10/22/90	10/09/90	24,981	Uranium.
Unisys Corp (workers)	Paoli, PA	10/22/90	09/18/90	24,982	Computers.
Waymart Knitting Co., Inc. (workers)	Waymart, PA	10/22/90	10/05/90	24,983	Shirts.
Western Union Corp. (workers)	Allentown, PA	10/22/90	10/10/90	24,984	Telex machines.
Weyerhauser-Craig Plant (workers)	Broken Bow, OK	10/22/90	10/09/90	24,985	Fiberboard.
Winchester Mold, Inc. (AFGW)	Winchester, IN	10/22/90	10/09/90	24,986	Molds.
Zenith Electronics Corp. (IBEW)	Springfield, MO	10/22/90	10/08/90	24,987	TV receivers.

[FR Doc. 90-26592 Filed 11-8-90; 8:45 am]

BILLING CODE 4810-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 19, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 19, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
A.P. Green Industries (workers)	Troy, ID	10/29/90	10/03/90	24,988	Heat insulations.
A.P.I. of Florida (workers)	Silver Springs, FL	10/29/90	10/11/90	24,989	Inductor coils.
Airfoil Textron (UAW)	Fostoria, OH	10/29/90	10/08/90	24,990	Compressor blades.
Applied Biosystems, Inc. (workers)	Ramsey, NJ	10/29/90	10/06/90	24,991	Instruments.
BASF/Chemical Div. (workers)	Kearney, NJ	10/29/90	10/11/90	24,992	Raw materials.
Behrens Mfg., Co. (workers)	Winona, MN	10/29/90	10/12/90	24,993	Containers.
Bernat Yarn & Craft Corp. (workers)	UxBridge, MA	10/29/90	08/30/90	24,994	Craft kits.
BethEnergy Mines, Inc. (UMWA)	Ebensburg, PA	10/29/90	10/12/90	24,995	Coal.
Billie Jo Sportswear (workers)	New York, NY	10/29/90	10/17/90	24,996	Sportswear.
Brush Fuses, Inc. (USWA)	Des Plaines, IL	10/29/90	10/19/90	24,997	Fuses.
Gem Industries, Inc. (workers)	Gardner, MA	10/29/90	10/14/90	24,998	Furniture.
Hewitt-Robins Corp. (IAM)	Passaic, NJ	10/29/90	10/19/90	24,999	Machinery.
Info Magnetics Caribe, Inc. (workers)	Moca, PR	10/29/90	10/11/90	25,000	Magnetic heads.
ISC-Bunker Ramo	Spokane, WA	10/29/90	10/17/90	25,001	Computers.
Jay-Zee, Inc. (workers)	St. Louis, MO	10/29/90	10/15/90	25,002	Slacks.
Johnson Controls, Inc. (SMWIA)	Lexington, KY	10/29/90	10/17/90	25,003	Instruments.
Krementz & Co. (workers)	Newark, NJ	10/29/90	10/19/90	25,004	Jewelry.
Mason Lumber Co. (workers)	Beaver, WA	10/29/90	10/16/90	25,005	Lumber.
MSG (workers)	Nooksack, WA	10/29/90	10/17/90	25,006	Lumber.
Olean Advanced Products (IBEW)	Olean, NY	10/29/90	10/16/90	25,007	Ceramic capacitor.
Penn Wire Rope (workers)	Williamsport, PA	10/29/90	10/08/90	25,008	Cable.
R&S Supply (workers)	Portage, MI	10/29/90	10/23/90	25,009	Paper.
Royce Chemical Co. (workers)	Newark, NJ	10/29/90	10/18/90	25,010	Zinc powder.
Russell-Newman, Inc. (workers)	Seymour, TX	10/29/90	10/18/90	25,011	Apparel.
Sealed Air Co. (USW)	Somerset, NJ	10/29/90	10/12/90	25,012	Envelopes.
Skillers of America (workers)	Butler, PA	10/29/90	10/11/90	25,013	Sportswear.
Stateline Foundry, Inc. (workers)	Roscoe, IL	10/29/90	10/09/90	25,014	Motorheads.
Texas Oil & Gas Corp. (workers)	Dallas, TX	10/29/90	10/16/90	25,015	(Workers).
White Plywood (workers)	Lebanon, OR	10/29/90	10/12/90	25,016	Plywood.
Winter Wood Products, Inc. (workers)	Phillips, WI	10/29/90	10/15/90	25,017	Wood handles.
Yellow Front Stores, Inc. (workers)	Phoenix, AZ	10/29/90	10/22/90	25,018	Sporting goods.

[FR Doc. 90-26579 Filed 11-8-90; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Connecticut 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 of 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 November 3, 1978, notice was published in the **Federal Register** (43 FR 51390) of the approval of the Connecticut Public Sector States Plan State and the adoption of subpart E to part 1956 containing the decision.

The Connecticut Public Sector only State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing an intent to amend the State Plan by adopting the standard(s) in the Connecticut Law Journal.

b. Approval by the Commissioner of Labor and the Attorney General of the State of Connecticut.

c. Approval by the Legislative Regulation Review Committee, State of Connecticut.

d. Filing in the Office of the Secretary of State, State of Connecticut.

e. Publishing a notice that the State Plan is amended by adopting the standards(s) in the Connecticut Law Journal.

The Connecticut Public Sector 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 February 23, 1990, from Commissioner Betty L. Tianti, Connecticut Department of Labor, to John B. Miles, Jr., Regional Administrator, and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR parts 1910 and 1926 and subsequent amendments thereto, as described below:

(1) Revision to 29 CFR 1910.120, Hardous Waste Operations and Emergency Response; final rule (54 FR 9317, dated 3/6/89).

(2) Revision to 29 CFR 11910.1000, Air Contaminants; final rule, (54 FR 2920, dated 1/19/89).

(3) Correction to 29 CFR 1910.1000, Air Contaminants; (54 FR 28054, dated 7/5/89).

(4) Revision to 29 CFR Part 1926, Underground Construction; final rule (54 FR 23850, dated 6/2/89).

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 accordingly are 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, 133 Portland Street, Boston, Massachusetts 02114; Office of the Commissioner, State of Connecticut, Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, and the OSHA Office of State Programs, room N-3476, Third Street and Constitution Avenue, NW., 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 supplement to the Connecticut Public Sector Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

This decision is effective November 9, 1990.

Authority: Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Boston, Mass., this 23rd day of August, 1990.

John B. Miles, Jr.,

Regional Administrator.

[FR Doc. 90-26580 Filed 11-8-90; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-96]

NASA Advisory Council Exploration Task Force; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council Exploration Task Force.

DATES: December 6, 1990, 8:30 a.m. to 5 p.m.; and December 7, 1990, 8:30 a.m. to 1 p.m.

ADDRESSES: National Air and Space Museum, Director's Conference Room, room 3501, 7th and Independence Avenue, SW., Washington, DC 20560.

FOR FURTHER INFORMATION CONTACT: Ms. Kristine Johnson, Code RZ, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2918.

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Exploration Task Force was established to provide strategy guidelines for a comprehensive program of human exploration of the solar system and report to the Council the results of its study. The Task Force is chaired by Robert M. Adams and is composed of nine members.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 30 persons including Task Force members and other participants.

Type of Meeting: Open.

Agenda

December 6, 1990

8:30 a.m.—Introductory Remarks.
8:45 a.m.—Space Exploration Initiative Update.
9:45 a.m.—Rationale and Benefits Assessment Overview.
10:30 a.m.—Rationale White Paper.
1 p.m.—Education White Paper.
2 p.m.—NASA Educational Objectives and Programs.
3:30 p.m.—Economics White Paper.
5 p.m.—Adjourn.

December 7, 1990

8:30 a.m.—Quality of Life White Paper.
9:30 a.m.—International White Paper.
10:45 a.m.—Discussion of Space Exploration Initiative Identifier.
11:45 a.m.—Development of Action Plan.
1 p.m.—Adjourn.

Dated: November 5, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-26529 Filed 11-8-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public. Interested persons are invited to submit comments to the following individuals within 30 days of the published date of this notice. Comments may be submitted to:

1. *Agency Clearance Officer:* Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or telephone (202) 357-7335.

2. *OMB Desk Officer:* Office of Information and Regulatory Affairs, attn: Dan Chenok, Desk Officer, Paperwork Reduction Project (3145-0101), OMB, 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: 1992 and 1994 Surveys of Scientific and Engineering Research Facilities.

Affected Public: Non-profit institutions.

Respondents/Burden Hours: 415 respondents; 24 hours per response.

Abstract: These two surveys of academic research facilities will update data from previous biennial surveys in 1988 and 1990, and will document trends in facilities amount, condition, adequacy, cost, and needs. Findings will be used to inform institution, state and Federal facilities programs and policy makers on recent trends regarding research facilities.

Dated: November 5, 1990.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 90-26503 Filed 11-8-90; 8:45 am]

BILLING CODE 7555-01-M

Committee Management; Establishment

The Assistant Director for Scientific, Technological, and International Affairs has determined that the establishment of the Advisory Panel for Experimental Program to Stimulate Competitive Research (EPSCoR) is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of the Committee: Advisory Panel for Experimental Program to Stimulate Competitive Research (EPSCoR).

Purpose: To review, evaluate, and site visit, if necessary, research and research-related proposals submitted to the NSF EPSCoR Program. Additionally, the Panel provides general advice and policy guidance to EPSCoR.

Balanced Membership Plan: The Panel will consist of up to about 75 panelists. Criteria used to maintain balanced membership are demonstrated capabilities in scientific research, age, gender, minority, geographic origin, and disabled.

Responsible NSF Official: Dr. Bruce Reiss, Program Director for the EPSCoR Program, (202) 357-7760.

Dated: November 5, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-26504 Filed 11-8-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Cross-Disciplinary Activities; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Cross-Disciplinary Activities.

Date and Time: November 29-30, 1990; 8:30-5 p.m., Room 536, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Mrs. Barbara H. Palmer, Administrative Officer, Office of Cross Disciplinary Activities, Room 304, National Science Foundation, Washington, DC 20550, (202) 357-7349.

Summary of Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: To provide regular advice, recommendations, and oversight to the Office in guiding its policy decisions with regard to the programs within its purview.

Agenda: November 29: 8:30-12 noon. Review and discussion of current OCDA activities.

12-1 p.m. Lunch.

1-5 p.m. Possible New Initiatives, OCDA Committee Reactions.

November 30, 1990: 8:30-12 noon. Committee Activities. Subcommittee Reports.

12-1 p.m. Lunch.

1-3 p.m. Discussions with Acting Director and Acting Assistant Director.

Dated: November 5, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-26505 Filed 11-8-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 030-12145-CivP; E.A. 89-079, ASLBP No. 91-622-01-CivP]

Certified Testing Laboratories, Inc.; Hearing

Before Administrative Judges:
Charles Bechhoefer, Chairman
Dr. Cadet H. Hand, Jr.
Elizabeth B. Johnson

In the matter of Laboratories, Inc.; [Materials License No. 29-14150-01] November 5, 1990.

Notice is hereby given that, by Memorandum and Order dated November 5, 1990, the Atomic Safety and Licensing Board has granted the request of Certified Testing Laboratories, Inc. (Licensee) for a hearing in the above-titled proceeding. The hearing concerns the Order Imposing A Civil Monetary Penalty, issued by the NRC Staff on August 29, 1990 (published at 55 FR 36729, September 6, 1990). The parties to the proceeding are the Licensee and the NRC Staff. The issues to be considered at the hearing are (a) whether the Licensee committed Violations I.A.1 AND I.B, as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty, dated March 9, 1990; and (b) whether, on the basis of those violations and Violation I.A.2 set forth in the Notice of Violation that the Licensee admitted, the Order Imposing A Civil Monetary Penalty should be sustained.

Materials concerning this proceeding are on file at the Commission's Public Document room, 2120 L Street, NW., Washington, DC 20555, and at the Commission's Region I Office, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

During the course of this proceeding, the Licensing Board, as necessary, will conduct one or more prehearing conferences and evidentiary hearing sessions. The time and place of these sessions will be announced in later Licensing Board Orders. Members of the public will be invited to attend any such sessions.

Dated: November 5, 1990, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Charles Bechoefer,

Chairman, Administrative Judge.

[FR Doc. 90-26563 Filed 11-8-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-390 and 50-391]

Tennessee Valley Authority; Availability of Safety Evaluation Report Related to the Operation of Watts Bar Nuclear Plant, Units 1 and 2

The U.S. Nuclear Regulatory Commission has published its Safety Evaluation Report, Supplement No. 5 Related to the Operation of Watts Bar Nuclear Plant, Units 1 and 2, Docket Nos. 50-390 and 50-3291 (NUREG-0847).

Copies of the report have been placed in the NRC's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and in the Local Public Document room, Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402, for review by interested persons. Copies of the report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, GPO deposit account holders may charge orders by calling 202-275-2060. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 1st day of November, 1990.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-26564 Filed 11-8-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Availability

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Notice of availability of the first annual report on the Small Business Competitiveness Demonstration Program.

SUMMARY: Title VII of Public Law 100-656 established the Small Business Competitiveness Demonstration Program as a four year test. The purpose of the Program is to determine if small businesses can successfully compete on an unrestricted basis for Federal Government contracts. In addition, the Program seeks to determine if the use of targeted goaling techniques can expand small business participation in areas where Federal contracting opportunities have been historically low. OFPP has prepared a report to assess the Program's impact during its first year of operation.

ADDRESSES: Those persons interested in obtaining a copy of the first annual report on the Small Business Competitiveness Demonstration Program should contact the Executive Office of the President Publications Service, room 2200, 725 17th Street, NW., Washington, DC, 20503, or phone (202) 395-7332.

Dated: November 5, 1990.

Allan V. Burman,

Administrator.

[FR Doc. 90-26606 Filed 11-8-90; 8:45 am]

BILLING CODE 3110-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Prior Service Reports.

(2) *Form(s) submitted:* AA-15, AA-2P(R), G-86.

(3) *OMB Number:* 3220-0003.

(4) *Expiration date of current OMB clearance:* Three years from date of approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households, businesses or other for-profit.

(8) *Estimated annual number of respondents:* 550.

(9) *Total annual responses:* 550.

(10) *Average time per response:* .298 hours.

(11) *Total annual reporting hours:* 164.

(12) *Collection description:* Railroad service prior to 1937 which can be used to determine entitlement to and amount of annuity under the RRA is not carried on Railroad Retirement Board records. The reports obtain verification of such records, or in the absence of such records, obtain information from the applicant to support the claim.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,
Clearance Officer.

[FR Doc. 90-26488 Filed 11-8-90; 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28595; File No. SR-NASD-90-57]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Service Charges for the Risk Management Functions of the Automated Confirmation Transaction Service

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend part IX of Schedule D of the By-Laws, adding a service charge for the risk management function of the Automated Confirmation Transaction ("ACT") service of $.02/side and $15/month per correspondent firm.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The ACT service, implemented in March 1990 for self-clearing firms, is designed to capture trade information in close proximity to the time of the trade to compare and lock-in that data for same day submission to clearing. The ACT service for clearing firms and their executing correspondents was implemented on October 29, 1990, with full risk management functionality. The risk management features of the ACT service include correspondent gross dollar thresholds for purchases and sales, trade file scan, end of day recap, on-line review (for computer interface clearing firms), a single trade limit of $1,000,000 (with time for clearing firm review), and super cap calculations, along with alert and pre-alert messages when correspondents are approaching any of the applicable thresholds. (For a detailed description of the ACT risk management functions, see SR-NASD-89-25, Release No. 34-26991, dated June 29, 1989 and Amendments 2 and 3 to SR-NASD 89-25, Release No. 34-27229, dated September 7, 1989 and Release No. 34-27977, dated May 2, 1990.) The ACT risk management function will serve approximately 900 introducing brokers and their clearing firms. These "indirect" clearing firms account for approximately 25% of trading activity as counted by number of sides submitted to clearing. The operational impact on the ACT system to process risk management traffic has been projected to account for 10% of the overall capacity of the ACT computers. To implement the risk management functions for ACT, the NASD has expended over $1 million in one-time and development costs for hardware and software development, and in keeping with the Association's commitment to keep costs as low as possible for member services, has decided on a five-year recovery period, rather than the three-year period used in the past. With the addition of operational expenses attributable to risk management functions, the service charges for participants result in a fixed monthly fee of $15 per correspondent and a variable charge of $.02 per side.

The NASD believes the proposed rule change is consistent with section 15A(b)(5) of the Act. Section 15A(b)(5) requires that the rules of a national securities association "provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls." The ACT service charges proposed in this filing have been formulated on the basis of the costs associated with developing and operating the risk management functions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed

rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of rule 19b-4 thereunder in that it is "establishing or changing a due, fee, or other charge imposed by the self-regulatory organization." At any time within 60 days of the filing of such 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 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 5 U.S.C. 552, will be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: November 5, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-26506 Filed 11-8-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 5, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0086.
Form Number: CF 214 and CF 216.
Type of Review: Extension.
Title: Application for Foreign Trade Zone Admission and/or Status Transaction; Application for Foreign Trade Zone Activity Report.
Description: These documents allow business firms to apply for admission of goods to a foreign trade zone, and for foreign trade zone grantees and U.S. Customs to authorize admissions without payment of duties and taxes. Also allows firms to apply for and receive an appropriate zone status.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 6,514.
Estimated Burden Hours Per Response/Recordkeeping: 17 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/Reporting Burden: 18,001 hours.
Clearance Officer: Dennis Dore, (202) 535-9267, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 90-26546 Filed 11-8-90; 8:45 am]

BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 5, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0115.
Form Number: ATF Form 5220.4.
Type of Review: Extension.
Title: Monthly Report—Export Warehouse Proprietor.
Description: Proprietors who are qualified to operate export warehouses that handle untaxpaid tobacco products are required to file a monthly report. This report summarizes all transactions by the proprietor including receipts, dispositions and on-hand quantities. ATF F 5220.4 is used for product accountability and is examined by regional office personnel.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 218.
Estimated Burden Hours Per Response: 49 minutes
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 2,119 hours.
Clearance Officer: Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-26547 Filed 11-8-90; 8:45 am]

BILLING CODE 4810-31-M

CUSTOMS SERVICE

[T.D. 90-88]

Revocation by Action of Law of the Customs Broker License for Kamigumi U.S.A. Inc.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to section 641(c) (5), Tariff Act of 1930, as amended (19 U.S.C. 1641(c) (5)), and part 111.45 of the Customs Regulations, as amended (19 CFR 111.45), the license for Kamigumi U.S.A., Inc., (license no. 11443) to conduct Customs business has been revoked by operation of law for failure to have at least one officer of the corporation who is validly licensed for a continuous period of 120 days. Such revocation was effective on October 13, 1990.

Dated: November 6, 1990.

Victor G. Weeren,

Director, Office of Trade Operations.

[FR Doc. 90-26585 Filed 11-8-90; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 218
Friday, November 9, 1990

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).

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings

TIME AND DATE: 9:30 a.m., Thursday, November 15, 1990.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Open.

BOARD BRIEFING:

1. Insurance Fund Report.
2. Central Liquidity Report and Report on CLF Lending Rate.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Proposed Rule: Part 741, Requirements for Insurance, NCUA's Rules and Regulations.
3. Fiscal Year 1991 Operating Fee Assessment.

RECESS: 10:30 a.m.

TIME AND DATE: 11:00 a.m., Thursday, November 15, 1990.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (8), (9)(A)(ii), and (9)(B).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 90-26713 Filed 11-7-90; 1:30 pm]

BILLING CODE 7535-01-M

Corrections

Federal Register
Vol. 55, No. 218
Friday, November 9, 1990

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 ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90-568-000, et al.]

PSI Energy, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 90-26149 beginning on page 46713 in the issue of Tuesday, November 6, 1990, make the following correction:

On page 46714, in the second column, under number 21, the docket number should read "[Docket No. EL90-40-000]".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 808

[Docket No. 89P-0314]

Exemption From Preemption of State and Local Hearing Aid Requirements; Vermont

Correction

In proposed rule document 90-25603 beginning on page 45615 in the issue of Tuesday, October 30, 1990, make the following correction:

On page 45615, in the first column, under **DATES**, on the fifth and sixth lines, "by November 29, 1990" should read "30 days after date of publication in the Federal Register".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Criteria and Standards for Evaluating Intermediary and Carrier Performance

Correction

In notice document 90-23117 beginning on page 39730 in the issue of Friday, September 28, 1990, make the following corrections.

1. On page 39731, in the first column, in the first full paragraph, the second sentence should read "These programs include educational and outreach activities and the use of professional relations personnel to handle billing and other problems relating to payment of claims of participating physicians; and programs to familiarize beneficiaries with the participating physician program and to assist the beneficiaries in locating participating physicians."

2. In the last paragraph of the first column, in the second line, in the parenthetical, "Dee" should read "See".

3. On page 39733, in the second column, under item 7, the fourth italicized entry should read "*Passing Level (3-part standard) and Points*".

4. On page 39737, in the first column, under item 8, under the fourth "Passing Level and Points" heading, in the second line "tool" should read "total"; and under the next heading of the same name, in the first line, "Reports" should read "Report".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6808

[CO-930-01-4214-10; COC-48967]

Withdrawal of National Forest System Land for Protection of Recreational Values; Colorado

Correction

In rule document 90-25190 beginning on page 42959 in the issue of Thursday, October 25, 1990, make the following correction:

On page 42960, in the first column, in the land description, in section 15, in the third and fourth lines, the portion after "and" should read "N½N½NW¼ SW¼;".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-234]

Organization and Delegation of Powers and Duties

Correction

In rule document 90-23435 beginning on page 40661 in the issue of Thursday, October 4, 1990, make the following corrections:

§ 1.53 [Corrected]

In § 1.53, on page 40662, in the third column, the last paragraph should be designated "(e)" rather than "(3)"; and on page 40663, in the last line of paragraph (h)(2) "Order of the President" should read "Office of the President".

BILLING CODE 1505-01-D

federal register

Friday
November 9, 1990

Part II

Department of State

Office of Protocol

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1989; Notice

DEPARTMENT OF STATE

Office of Protocol

[Public Notice 1284]

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1989

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 1989 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute.

Publication of this listing in the **Federal Register** is required by section 7342(f) of title 5, United States Code, as added by section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Pub. L. 95–105, August 17, 1977, 91 Stat. 865).

Dated October 2, 1990.

Ivan Selin,

Under Secretary for Management.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Flowers: Fifty red roses with baby's breath and Christmas greens. Residence; for official use/display. Recd: Dec. 21, 1989. Est. value: $250.	His Excellency and Mrs. Ghazi Mohamed Algosaibi, Ambassador of the State of Bahrain, Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Athletic equipment: Two "Flying Pigeon" one-speed bicycles—one white with green trim and one white with red trim; also included are multicolored carrying bags; Residence; for official use/display. Photograph: Fabric-covered album of 30 color photographs of the President and Mrs. Bush, et al. on the occasion of their trip to the People's Republic of China. Archives, Foreign. Recd: Feb. 25, 1989. Est. value: $754.	His Excellency Li Peng, Premier of the State Council of the People's Republic of China, People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Photograph: An autographed color photograph of His Royal Highness Prince Philip in a sterling silver frame with a Royal Crest engraved at top; leather easel backing; 8½"×12¼" overall. Residence; for official use/display. Recd: May 31, 1989. Est. value: $1050.	His Royal Highness Prince Philip, Duke of Edinburgh, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: An oval enamelled music box, by Halcyon Days Enamels, made in England; 2¼" in diameter; Residence; for official use/display. Flowers: A basket of English cut flowers. Residence; for official use/display. Recd: May 31, 1989. Est. value: $670.	The Right Honorable Margaret Thatcher, M.P., Prime Minister of England, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Flowers: Two large pots of white orchids. Residence; for official use/display. Recd: May 22, 1989. Est. value: $100.	His Excellency Francois Mitterrand, President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Consumables: 12 bottles of assorted German wines. Perishable. Recd: Jan. 23, 1989. Est. value: $375.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Consumables: 20 cans (approximately one pound each) of various cold-meat specialities from the Palatinate. Perishable. Recd: May 30, 1989. Est. value: $90.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Consumables: 15 bottles of German wine; perishable. Household: A decorative Blue Lapis Bowl by H. Wolf, Signed; 6" in diameter. Archives, Foreign. Recd: May 31, 1989. Est. value: $700.	His Excellency Dr. Carl-Ludwig Wagner, Ministerpresident, Rheinland-Pfalz, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Artwork: Wood seal of the City of Nettuno; mounted in gold-colored distressed frame with presentation plaque; 17½"×21"; Archives, Foreign. Artwork: Antique engraving, dated 1600, of the old town of Nettuno in brown wood frame; 19¼"×23½"; Archives, Foreign. Books: Two copies of "Quei Giorni a Nettuno (Those Days at Nettuno)," by Francesco Rossi and Silvano Casaldi, published by Edizioni Abete, 1989, and one copy of "Nettuno (Vista Da Un Giornalista)," by Oscar Rampone, Archives, Foreign. Recd: May 31, 1989. Est. value: $370.	The Honorable Antonio Simeoni, Mayor of the City of Nettuno, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: Glazed earthenware bowl, Middle Eastern Design on blue background, by M. Tana, 1989, signed on underside; 19" in diameter; Archives, Foreign. Photograph: Color photograph of their Royal Highnesses Crown Prince Hassan and Princess Sarvath, inscribed; displayed in navy blue leather frame with gold-stamped edging; 11½×9" overall. Archives, Foreign. Recd: Sep. 12, 1989. Est. value: $260.	His Royal Highness Hassan Bin Talal, Crown Prince of the Hashemite Kingdom of Jordan, Jordan.	Non-acceptabnce would cause embarrassment to donor and U.S. Government.
President and First Lady	Photograph: Album of 28 color photographs of President and Mrs. Bush on occasion of their visit to South Korea; gold-stamped design and inscription on cover; housed in a blue velvet-covered case. Archives, Foreign. Recd: May 15, 1989. Est. value: $380.	His Excellency and Mrs. Roh Tae Woo, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Photograph: Color photograph of President Roh, inscribed; in a sterling silver frame with crest at top; 9"×11". Residence; for official use/display. Recd: Oct. 17, 1989. Est. value: $75.	His Excellency Roh Tae Woo, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: A silver-plated set of six perfume or potpourri lancers with matching carrying tray. Archives, Foreign. Recd: Dec 21, 1989, Est. value: $970.	His Excellency and Mrs. Ali Bengelloun, Ambassador of Morocco, Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: A pair of Delft footed vases, designed in two parts, with fish head spout motif at bottom and center and gargoyle figures around top; 21" tall overall. Archives, Foreign. Recd: Jul 19, 1989. Est. value: $600.	Her Majesty Beatrix, Queen of The Netherlands, Netherlands.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Book: Autobiography, "Daughter of Destiny," by Benazir Bhutto; inscribed; published by Simon and Schuster, New York, 1989. Archives, Foreign. Recd: Jun. 06, 1989. Est. value: $22.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan, Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Artwork: A star design Philippine lantern handcrafted of multi-colored capiz shells; electrified; 26" in diameter; Archives, Foreign. Household: One dozen corkboard place mats and coasters covered in Mother-of-Pearl; 12"×18" and 3½"×4½" respectively. Archives, Foreign. Recd: Nov. 9, 1989. Est. value: $275.	Her Excellency Corazon Aquino, President of the Republic of the Philippines, Philippines.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: A 70" square handwoven wool rug with overall floral and border design in earth tones, and a crystal punch bowl, ladle, and twelve cups. Archives, Foreign. Recd: Jul. 10, 1989. Est. value: $1,100.	His Excellency and Mrs. Wojciech Jaruzelski, President of the Council of Ministers of the Polish People's Republic, Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Household: A black lacquered box depicting a prince and a frog on the lid, 6¼"×2¾"×1½"; an oval metal plaque depicting the Kremlin, 6¾"×7½"; and a fragment of an SS-20 missile destroyed in accordance with the INF treaty, displayed in a lucite case, 6"×11½". Archives, Foreign. Recd: Nov. 21, 1989. Est. value: $350.	His Excellency Anatolly F. Dobrynin, Advisor to the Chairman of the Supreme Soviet Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Consumables: Three cartons (36 bottles) of Algerian wine and four boxes of dates-on-vine. Perishable. Recd: Jan. 23, 1989. Est. value: $188.	His Excellency Chadli Bendjedid, President of the Democratic and Popular Republic of Algeria, Algeria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Two wooden carved Mezzo relief heads of a man and a woman, mounted on grasscloth background, and displayed in light-colored wood frame with engraved brass presentation plaque; 28½"×34" overall. Archives, Foreign. Recd: Oct. 5, 1989. Est. value: $300.	His Excellency Jonas Savimbi, President of Unita, Angola.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A blanket of Guanaco fur measuring 80"×91" overall; Archives, Foreign. Consumables: Six bottles of Argentine wine. Perishable. Recd: Sep. 26, 1989. Est. value: $675.	His Excellency Carlos Menem, President of the Argentine Nation, Argentina.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Coin: A $100 "1989 Barbados 350th Anniversary of Parliament" gold proof coin encased in plastic holder. Archives, Foreign. Recd: Sep. 20, 1989. Est. value: $190.	The Honorable Lloyd Erskine Sandiford, Prime Minister of Barbados, Barbados.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Book: An original copy of "On Liberty" by John Stuart Mill; published by John W. Parker and Son, West Strand, London, 1859; bound in red leather with mottled end-papers; restored condition. Archives, Foreign. Recd: May 27, 1989. Est. value: $500.	His Excellency Jacques Delors, President of the Commission of the European Communities, Belgium.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A circular wallhanging or decorative piece made from animal hide and hair; 30" in diameter. Archives, Foreign. Recd: Jun. 07, 1989. Est. value: $350.	Mrs. Quett Masire, wife of the President of the Republic of Botswana, Botswana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Wool wallhanging depicting a multicolored village scene of people, animals, birds, trees, and huts in a patchwork style; fringed; 67"×70". Archives, Foreign. Recd: Jun. 07, 1989. Est. value: $650.	His Excellency Dr. Quett K.J. Masire, President of the Republic of Botswana, Botswana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Clothing and accessories: A gray, white, and black hooded wool sweater handcrafted by a Newfoundland craftsperson; size 44; Archives, Foreign. Artwork: Copper weathervane figure of a rooster, displayed on an old wood base; 12" wide, 18" tall overall. Archives, Foreign. Recd: May 04, 1989. Est. value: $264.	The Right Honorable and Mrs. Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Calligraphic artwork scroll of the Tang Dynasty beauty, Yang Gui Fei; watercolor on paper attached to wood pole; Archives, Foreign. Artwork: A seal script or Tu-Zhang with elephant motif, 2"×1¾"×¾". Archives, Foreign. Recd: Feb. 16, 1989. Est. value: $1,050.	His Excellency, Lin Hanxiong, Minister of Construction of the People's Republic of China, People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Books: "Atlas De Cartografia Historica De Colombia," (includes 3-part set of documentation), 1985; "Colombia Amazonica," 1987; "Politica De Gobierno Nacional . . . De La Cuenca Amazonia"; and two copies of "The Fight Against the Drug Traffic in Colombia."; Archives, Foreign. Books: Four books about the PTI (Interoceanic Land Bridge) project; Archives, Foreign. Household: Silver (900) box engraved "Septiembre De 1989" and bearing coat of arms of Colombia; 3"×4½". Archives, Foreign. Recd: Oct. 06, 1989. Est. value: $310.	His Excellency Virgilio Barco Vargas, President of the Republic of Colombia, Colombia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Historic Artifacts: "Antique Earthenware Jug" Numbered "SR 10745/87" on Underside; 600 B.C.; 5" in diameter at center, 7½" tall. Archives, Foreign. Recd: Oct. 04, 1989. Est. value: Indeterminable.	His Excellency George Vassiliou, President of the Republic of Cyprus, Cyprus.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A flat weave wool rug depicting an Egyptian scene of pyramids, trees, and birds on a gold-colored background; fringed on two ends; 5 feet, 4 inches long × 3 feet, 10 inches wide. Archives, Foreign. Recd: Apr 04, 1989. Est. value: $185..	His Excellency Mohammad Hosni Mubarak, President of the Arab Republic of Egypt, Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A 100 percent New Zealand wool rug depicting fullface portrait of President Bush; power loomed by oriental weavers, Egypt; fringed on one end; 58"×81" overall. Archives, Foreign. Clothing and accessories: A cotton jogging suit; yellow, gray, and white jacket with solid gray pants; "Octopus" brand, size medium. Archives, Foreign. Recd: Oct. 05, 1989. Est. value: $345.	His Excellency Mohammad Hosni Mubarak, President of the Arab Republic of Egypt; Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A silver trinket box with incised designs overall; 10¼"×6¾"×1¼"; enclosed in a blue velvet-covered box. Archives, Foreign. Recd: Aug 08, 1989. Est. value: $1,000.	His Excellency Youssef Abou Taleb; Commander-in-Chief of the Armed Forces; Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A "Parker Duofold" fountain pen with black shaft and gold-plated trim and 18 kt. gold nib; Archives, Foreign. Household: A sterling silver "Armada dish" made in England; 4½" in diameter. Archives, Foreign. Recd: May 31, 1989. Est. value: $450.	The Right Honorable Margaret Thatcher, M.P.; Prime Minister of England; England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Original black and white engraved print of the Bastille, titled "Vue De La Bastille De Paris, De La Porte St., Antoine, Et Du'Une Partie Du Fauxbourg," By J. Rigaud; No. 97; Shadowbox matted in 22 kt. gold-leaf frame; 11"×20½"; overall: 20"×28½". Archives, Foreign. Recd: May 08, 1989. Est. value: $800.	His Excellency, Jacques Chirac; Mayor of Paris; France.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Assortment: A framed Bicentennial print by Texier, 1939, measuring 31"×44" overall; a book, "Richard Texier;" and a spot image photograph of the Paris area of the Economic Summit in metal frame, measuring 31"×35" overall; Archives, Foreign. Artwork: A brass disc and silver-toned metal cylinder sculpture in blue velvet presentation chest; disc measures 11" in diameter and the cylinder measures 2⅜" in diameter and 8½" long; the lid of the chest is lettered "15-14-16 Juillet 1989—Francois Mitterrand—President De La Republique"; Archives, Foreign. Artwork: A bronze sculpture depiction of the phrase "Liberte, Egalite, Fraternite," by Haim Kern; the work measures 21¼"×11"×2" overall and is contained in a fitted wood case; Archives, Foreign. Assortment: One cookbook, "Foie Gras, Magret, and other good food from Gascony;" an oval, polished brass paperweight in a stylized bird design, measuring 2½"×3½"; a 14 kt. gold bicentennial lapel pin; a 14 kt. gold Summit lapel pin; and a silver Summit medallion, lettered "Sommet De L'Arche 14-16 Juillet 1989 Francois Mitterrand" and measuring 3½" in diameter; Archives, Foreign. Household: A black leather briefcase with brass hardware by Longchamps and a book, "La Marseillaise," by Frederic Robert, Imprimerie Nationale Editions, 1989, red leather bound with gold edges in slipcase; Archives, Foreign. Household: A gentlemen Leman Rolling ball pen by Waterman. Official use/display. Recd: Jul 14, 1989. Est. value: $5,543.	His Excellency, Francois Mitterrand, President of the French Republic; France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: An antique wooden model of a sailing ship mounted on a black wooden base under an oval clear glass dome; Ship is 15" long, 15" tall; approximately 19" tall overall. Archives, Foreign. Recd: May 22, 1989. Est. Value: $1,500.	His Excellency Francois Mitterrand, President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Photograph: 31 black and white photographs of President and Mrs. Bush, et al., on the occasion of the Economic Summit in Paris; in tan paper-covered album in matching slipcase. Archives, Foreign. Recd: Aug 29, 1989. Est. Value: $298.	Mr. Serge Mostura, Ministry of Foreign Affairs, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A silver filigree ship mounted on a wood base: 12" long, 12" high, 5½" deep. Archives, Foreign. Recd: May 15, 1989. Est. Value: $350.	His Excellency Alhaji Sir Dawda Kairaba Jawara, President of the Republic of the Gambia, The Gambia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: An engraved sterling silver scalloped serving tray; 13"×17". Archives, Foreign. Recd: May 31, 1989. Est. Value: $800.	The Honorable Willi Hoerter, Lord Mayor of the City of Koblenz, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Original color etching of the town of Oberwesel, published in London, 1819; inscribed on matting; displayed under glass in brown wood frame; 10½"×12" image, 16¾"×20½" overall; Archives, Foreign. Artwork: an 18" x 32" leather wallhanging titled "Urkunde". Archives, Foreign. Recd: May 31, 1989. Est. Value: $250.	The Honorable Johan Peter Josten, Mayor of the Town of Oberwesel, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Fishing equipment: Chalkstream split-cane flyrod 5/89, 7½ feet long, 3¼ ounces; handmade by Bavarian craftsman C. M. Schinn; contained in a handcrafted case with engraved presentation plaque; included are approximately 75 flies in a handcrafted box and a leather record book containing a description of the rod. Archives. Recd: May 30, 1989. Est. Value: $683.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A quartz desk clock, round gold rim with Roman numeraled dial, date window, and second hand; made by "EB;" in a sterling silver frame engraved with the eagle emblem of the Federal Republic of Germany and a facsimile signature of Chancellor Kohl; 3" square. Archives, Foreign. Recd: Dec 6, 1989. Est. Value: $495.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Sterling silver humidor engraved with the German Eagle, depicting a color picture of the Brandenburg Gate on a hinged lid; engraved plaque on inside lid; 6¼"×9"×2" overall. Archives, Foreign. Recd: May 31, 1989. Est. Value: $575.	His Excellency Richard Von Weizsaecker, President of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Historic artifacts: Pictorial map, "Delkeskamp's Panorama of the Rhine from Cologne to Mayence," published by Leigh and Son, London; undated; in foldout binder. Archives, Foreign. Recd: May 31, 1989. Est. Value: Indeterminable.	His Excellency Dr. Carl-Ludwig Wagner, Ministerpresident, Rheinland-Pfalz, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Coin: An 18 kt. gold coin depicting the coat-of-arms of Ghana. Archives, Foreign. Recd: Mar. 10, 1989. Est. Value: $500.	His Excellency Flt.-Lt. Jerry John Rawlings, Chairman, Provisional National Defense Council of Ghana, Ghana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Medallions: A blue case containing two large reproduction coins minted to commemorate President Bush's visit to Hungary and two smaller silver and bronze coins. Archives, Foreign. Recd: Jul. 14, 1989. Est. Value: $250.	His Excellency F. Bruno Straub, President of the Presidential Council of the Hungarian People's Republic, Hungary.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Books: "An autobiography," "The Discovery of India," and "Glimpses of World History" by Jawaharlal Nehru; inscribed by Ambassador Singh; published by Oxford University Press, 1982; leather-bound with gold tooling. Archives, Foreign. Recd: Nov. 14, 1989. Est. Value: $525.	His Excellency Dr. Karan Singh, Ambassador of India, India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A painting entitled "The Arja Dance" by N. Darmana, Signed; depicts a classical drama dance from the island of bali performed in the Temple Yard after Finishing Religious Ceremony; in a light-colored carved wood frame with velvet backing: 41½"×55½" Overall; Archives, Foreign. Artwork: A circular plaque with Indonesian Coat of Arms, "Garuda Pancasila," a map of the Indonesian Archipelago, and the logos of the 27 Provinces; Gold-plated copper and teakwood; 11½" in diameter. Archives, Foreign. Recd: Jun. 15, 1989. Est. Value: $640.	His Excellency and Mrs. Soeharto, President of the Republic of Indonesia, Indonesia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Household: A Waterford crystal bowl engraved "Presented to George Bush President of the United States by the Taoiseach Charles Haughey on St. Patrick's Day 1989;" scallopped edge; 8" high, 12G6> in diameter. Archives, Foreign. Recd: Mar. 17, 1989. Est. Value: $12,000.	His Excellency Charles Haughey, Prime Minister of Ireland, Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Religious articles: A two-pronged candleholder centered with a star of David; made of black metal in Ethiopia; 7½"×6"; attached with a brass presentation plaque lettered "To George Bush . . . From the Ethiopian Jews in Israel"; Archives, Foreign. Artwork: A color print lettered "Whoever Preserves a Single Soul, Scripture Ascribes Merit to them as Tho They Saved a Complete World" (English and Hebrew text); circular matted under glass in brown wood frame; labeled on reverse with name, address, and inscription of artist, Mordachai N. Rosenstein; 222" square overall. Archives, Foreign. Recd: Mar. 13, 1989. Est. Value: $300.	His Excellency Moshe Arens, Minister of Foreign Affairs of Israel, Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Book: a leather-bound volume, "The Passover Haggadah," with original artwork by the artist Agam and inscribed in calligraphy; in a leather case and measuring 21"×17"×5"; provided with a 3-part lucite stand approximately 3 feet tall. Archives. Foreign. Recd: Apr 06, 1989. Est. Value: $25,000.	His Excellency Yitzhak Shamir, Prime Minister of Israel, Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: An original color etching, "Monte Cavallo Palais Du Pape a Rome (Monte Cavallo Palace of the Pope in Rome)," by Giacomo de Rossi, 1702; printed in Amsterdam; dark matting under glass in burlwood frame; 19"×28" image, 28½"×37½" overall. Archives, Foreign. Recd: May 26, 1989. Est. Value: $400.	His Excellency Francesco Cossiga, President of the Italian Republic, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Sterling silver dish with leaf design and bearing facsimile signature of President Cossiga on underside; 7" in diamter; residence; for official use/display. Photograph: Color photograph of President Cossiga, inscribed; in a sterling silver (925) frame; 11"×13". Residence; for official use/display. Recd: Oct. 11, 1989. Est. value: $350.	His Excellency Francesco Cossiga; President of the Council of Ministers of the Italian Republic, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Bronze sculpture of Garibaldi, the father of Italian independence and unification, mounted on marble base: artist unknown: 18" tall. Archives. Foreign. Recd: Dec 06, 1989. Est. value: $650.	His Excellency Bettino Craxi, Secretary of the Italian Socialist Party, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Murano glass bowl or vase, pink and white striped scalloped design; 10" high, 10" in diameter. Recd: May 27, 1989. Est. value: $350.	His Excellency Ciriaco de Mita, President of the Council of Ministers of the Italian Republic, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Consumables: One case (12 bottles) of "Vignadora" wine by Mastrobernardino, 1988 vintage. Perishable. Recd: Jul 18, 1989. Est. value: $336.	His Excellency Ciriaco de Mita; President of the Council of Ministers of the Italian Republic, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Books: Three volume set of books on the Etruscans published by Istituto Geografico de Agostina, Italian text, 1989. Archives, Foreign. Recd: May 27, 1989. Est. Value: $225.	The Honorable Bruno Lazzaro; President; Consiglio Regione Lazio, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Coins: A set of three medallions, gold, silver, and bronze, depicting Pope John Paul II on one side and the Mother and Child on the reverse; enclosed in a white leather case. Archives, Foreign. Recd: May 27, 1989. Est. Value: $625.	His Holiness Pope John Paul II, Italy	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Parchment scroll done in calligraphy and a colorful florentine design border of "The Freedom of Nettuno"; in brown leather tube. Archives, Foreign. Recd: May 31, 1989. Est. Value: $35.	The Honorable Antonio Simeoni, Mayor of the City of Nettuno, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Antiqued bronze sculpture entitled "Fraternity," by Maggio, 1988; (Depicts President Reagan and Chairman Gorbachev shaking hands with missiles in background; Greek figures embellish the sculpture); inscribed "This Work Is Given to the United States of America, Symbolically West Urging Every Country to Peace;" Displayed on a square base; overall: 86¾" H, 39½" W, 35½" D. Archives, Foreign. Recd: Oct. 11, 1989. Est. Value: $12,000.	The Government of the Italian Republic, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A miniature Kabuto helmet of metal, plastic, and braid; 7½"×5"×6"; displayed on wood stand and housed in a black lacquered box; residence. For official use/display photograph: color photograph of Prime Minister Takeshita, inscribed; in sterling silver frame with gold crest at top; 9½"×11½" overall. Archives, Foreign. Recd: Feb. 2, 1989. Est. Value: $240.	His Excellency Noboru Takeshita, Prime Minister of Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Statuette of a rider on camel; sterling silver decorated in gold-leaf and mounted on a marble base; 8½" high, 8" wide; displayed in a burgundy leather case. Archives, Foreign. Photograph: Color photograph of King Hussein I of Jordan, inscribed in sterling silver frame with royal crest at top; 8½"×11" overall. Residence; for official use/display. Recd: Apr. 20, 1989. Est. Value: $1970.	His Majesty Hussein I, King of the Hashemite Kingdom of Jordan, Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A black lacquered, mother-of-pearl document box; dragon design on removable lid, inscribed; interior lift-out suede trays; 19" long, 14" deep, 9" high. Archives, Foreign. Recd: Feb. 28, 1989. Est. Value: $300.	His Excellency Roh Tae Woo, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A watercolor on paper of a mountainous scene, by Yoo Tae Lee Hyun-Cho; inscribed in oriental calligraphy; in a gold-painted distressed wood frame; 18"×27" image, 28"×37½" overall. Archives, Foreign. Recd: Oct. 17, 1989. Est. Value: $150.	His Excellency Roh Tae Woo, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artwork: Watercolor of the United States and Soviet Ships involved in the meetings in the Mediterranean between President Bush and Chairman Gorbachev. Titled "A New Beginning," by Edwin Galea, signed, 1989; double-matted under non-glare glass in brown and gold-colored wood frame; engraved brass title and presentation plaques; 15" × 20½" image, 31¼" × 25¼" overall; Archives, Foreign. Consumables: Large wicker basket of assorted fruits, traditional breads, wines. Perishable. Recd: Dec. 01, 1989. Est. Value: $850..	The Honorable Dr. Edward Fench-Adami, Prime Minister of the Republic of Malta, Malta.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Sterling silver footed vase, bearing seal of the United Mexican States; 8" Tall, 5½" in diameter at widest point; displayed in a fitted leather case. Archives, Foreign. Recd: Oct. 03, 1989. Est. Value: $300.	His Excellency Carlos Salinas De Gortari President of the United Mexican States, Mexico.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: An arrangement of birds of paradise, gerber daisies, anthurium, lilies, palm fronds, and other tropical flowers in a reproduction Chinese porcelain jardiniere; Residence; For official use/display Consumables: A natural wicker basket filled with gourmet foodstuffs; perishable. Household: A brandy decanter, six fluted brandy glasses, and an eagle figurine, 7" tall; all crystal by baccarat. Archives, Foreign. Recd: June 12, 1989. Est. Value: $1,915.	His Majesty Hassan II, King of Morocco, Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Medallion: Gold engraved medallion lettered "to America Home for the Pilgrims from Leiden;" 2½" in diameter, contained in a blue leather box; Archives, foreign. Book: "Orfers Leiden" published in Leyden 1614. Archives, Foreign. Recd: July 17, 1989. Est. Value: $1400.	The Honorable C.H. Goekoop Burgemeester of Leiden, Netherlands.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A silk carpet (new) with a centered tree and vine design interspersed with bird motifs and bordered in floral pattern; in earth tones on creme colored background and fringed; 48" × 70" overall. Residence; for official use/display. Recd: June 06, 1989. Est. Value: $1,500.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan, Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Clothing and accessories: A "mate" or horn (flask) used by Gauchos, made of horn with silver (800) ends and plaque engraved "George Bush" and silver and gold lion motif, 6½" long; and a silver (800) "straw" for use with the horn, 8½" long; enclosed in a fitted red fabric-covered box. Archives, Foreign. Recd: Sep. 26, 1989. Est. Value: $800.	His Excellency Andres Rodriguez, President of the Republic of Paraguay, Paraguay.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Books: Two-volume set of "Burza Nad Pacyfikiem" (History of Polish Involvement in World War II in the Pacific) by Zbigniew Flisowski; Polish text. Archives, Foreign. Recd: July 10, 1989. Est. Value: $50.	His Excellency and Mrs. Wojciech Jaruzelski, President of the Council of Ministers of the Polish People's Republic, Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artwork: Oil Painting of an architectural site (House or temple) by Ali Al-Ruzaiza, Signed on reverse, in heavy goldleaf frame; 49" square image, 54" square overall; Archives, Foreign. Artwork: A plaque of three metal designs (scroll, key, and a colonial style building) mounted on felt background in wood frame; 15"×19½"; easel backing; contained in black vinyl case bearing seal of the Islamic Saudi Academy; crafted by students; Archives, Foreign. Books: "1400 years of Islamic Art" published by Khalili Gallery, London, 1981: "Islamic Science" by Seyyed Hossein Nasr, published by World of Islam Festival Publishing Company, Ltd., 1976; "The Genius of Arab Civilization" distributed by Kegan Paul International, England, 1983; and "Islam and Muslim Art" by Alexandre Papadopoulo, published by Harry Abrams, Inc., New York, 1979. Archives, Foreign. Recd: July 27, 1989. Est. Value: $1,545.	Fahd Bin Abd Al-Aziz Al Saud, custodian of the two holy mosques and King of the Kingdom of Saudi Arabia, Saudia Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: Large arrangement of pink peonies in a glass fishbowl. Residence; for official use/display Recd: June 12, 1989. Est. Value: $250.	His Royal Highness Prince Bandar Bin Sultan Bin Abdulaziz, Ambassador of Saudi Arabia, Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Silver ship model displayed on a polished wood base; 8½"×7"×2½"; West wing; for official use/display. Household: Silver cigarette box engraved "Felipe" and Royal Crown on lid; 8"×3¾"×2". Archives, Foreign. Recd: Oct. 01, 1989. Est. Value: $600.	His Royal Highness Felipe, Crown Prince of Spain, Spain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A modernistic print by Eduardo Chillida, signed; No. 56 of 100; in white metal frame; 20"×30" image, 26½"×36½" overall; Archives, Foreign. Book: "Chillida" by Octavio Paz, published by Maeght. Archives, Foreign. Recd: Oct. 19, 1989. Est. Value: $390.	His Excellency Felipe Gonzalez Marquez, President of the Government of Spain, Spain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A traditional Swazi wooden bowl made from Kiaat wood, 16" in diameter, and a vinyl album of photographs of King Mswati. Archives, Foreign. Recd: Apr. 27, 1989. Est. value: $350.	His Excellency Mswati III, King of Swaziland, Swaziland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A painted lacquer box depicting President Bush and Chairman Gorbachev with likenesses of the Capitol and Kremlin behind; 6¼"×4¼"×2⅜" deep. Camp David: for official use/display. Recd: Dec. 24, 1989. Est. value: Not yet determined.	His Excellency Yuri V. Dubinin, Ambassador of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A three-dimensional bamboo ship, displayed under glass in light-colored wood frame with presentation plaque; 24"×29½"; housed in a wood, brass-cornered carrying case; 25¼"×31¼" case. Archives, foreign. Recd: Jan. 20, 1989. Est. value: $250.	His Excellency Mikhail Gorbachev, Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artwork: Art model of the frigate "Aleksandr Nevskiy," a 51-cannon frigate, made in the Central Naval Museum in Leningrad according to the set of original design blueprints of 1852–1862 by Russian Naval Engineer K. Gasekhus; scale of 1/16 of an inch to one foot; approximately 2 feet long, 14 inches high, six inches wide; displayed in a wood-framed plexiglass case. Camp David; for official use/display. Recd: Dec. 02, 1989. Est. value: $12,000.	His Excellency Mikhail Gorbachev, Chairman of the Supreme Soviet of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Framed, enameled copper plaque depicting various public buildings in Washington, D.C.; 24" square and mounted in a wood frame; 33½" square overall; archives, foreign. Consumables: Four bottles of Russian vodka and four jars of caviar. Perishable. Recd: Sept. 21, 1989. Est. value: $640.	His Excellency Eduard A. Shevardnadze, Minister of Foreign Affairs of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Clothing and accessories: A "Guampa" or horn in the form of a flask used by Gauchos; bears year 1926; silver ends and leather strap; 7" long; housed in a navy blue case. Archives, foreign. Recd: Sept. 15, 1989. Est. value: $300.	His Excellency Julio Maria Sanguinetti, President of the Oriental Republic of Uruguay, Uruguay.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Bronze bust of Simon Bolivar by E. Prati, 1939; (from an original by Nhellby 1907); 20" high, 12" deep, 11" wide. Archives, foreign. Recd: Mar. 27, 1989. Est. value: $1,500.	His Excellency Dr. Jaime Lusinchi, Former President of Venezuela, Venezuela.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A circular cotton fibre rug depicting a multicolored peacock design and lettered "Venezuela;" 60" in diameter; designed by Luis Montiel. Archives, foreign. Recd: Sept. 25, 1989. Est. value: $1,200.	His Excellency Carlos Andres Perez, President of the Republic of Venezuela, Venezuela.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Collection: A display of 48 mineral samples from Zaire, contained in a carved wood chest measuring 20½"×15"; Archives, foreign. Artwork: A brass figure of a bird, 22"×9"×20"; Archives, foreign. Artwork: A set of 40 color floral prints, "Fleurs Du Zaire," published by Pehel Editions Bruxelles; each print is 11½"×15"; contained in a fabric-covered box. Archives, foreign. Recd: June 29, 1989. Est. value: $1,030.	His Excellency Marshal Sese Seko Mobutu, President of the Republic of Zaire, Zaire.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A painted lacquer box with a picture of President Bush on top; 8"×10½"×1¾" deep. Archives. Recd: Dec. 07, 1989. Est. value: $5,000.00.	Professor Levon O. Badalian, M.D., Academician of the USSR, Academy of Medical Sciences, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A cobalt blue glass dish with a decorative sterling silver leaf design clip by "Makers Mark;" 8¼" in diameter. Archives, Foreign. Recd: June 27, 1989. Est. Value: $228.	Mrs. Hazel Hawke, wife of the Prime Minister of Australia, Australia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: Soapstone figurine of a walrus, signed "Appa Geeta;" 7¾" long, 3½" tall; Archives, Foreign. Clothing and accessories: A red wool pullover fishing jacket, handmade by sea shell designs, Nova Scotia, Canada; size large. Archives, Foreign. Recd: May 04, 1989. Est. Value: $252.	The Right Honorable and Mrs. Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Household: A heavy beige cotton (flax) tablecloth with multi-colored embroidered figures; fringed on two ends; 52" wide, 98" long; and nine tablemats with one figure embroidered on each; 13"×25½" (includes one smaller mat, 9"×17"); Archives, Foreign. Household: Two wool carpets, multi-colored geometric design overall, fringed; 49"×97" and 47"×107"; Archives, Foreign. Clothing and accessories: An envelope style clutch bag, two wallets, and two change purses; all in snakeskin. Archives, Foreign. Recd: Mar. 14, 1989. Est. Value: $1,400.	Mrs. Hissein Haabre, Wife of the President of Chad, Chad.	Non-acceptance would cause embarrassment to donor and U.S. Government
First Lady	Household: White fisherman's net style bedspread, handcrocheted in Egypt, in a circular medallion design; 100" long 84" wide, Archives, Foreign. Recd: Apr. 04, 1989. Est. Value: $1,200.	His Excellency Mohammad Hosni Mubarak, President of the Arab Republic of Egypt, Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: An autographed color photograph of Her Majesty Queen Elizabeth II in a sterling silver frame bearing "ER" Royal Crest at top; leather easel backing; 8½"×12¼" overall. Residence; for official use/display. Recd: Jun. 08, 1989. Est. Value: $1,050.	Her Majesty Elizabeth II, Queen of England, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A gold-plated parker fountain pen, 18 kt. Gold NIB. Residence; for official use/display. Recd: May 31, 1989. Est. Value: $150.	The Right Honorable Margaret Thatcher, M.P., Prime Minister of England, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: An oval enamelled music box, by Halcyon Days Enamels. Made in England; 2¼" in Diameter. Camp David; for official use/display. Recd: Nov. 24, 1989. Est. Value: $595.	The Right Honorable Margaret Thatcher, M.P., Prime Minister of England, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Clothing and accessories: A burgandy calf leather, envelope style purse with leather strap and gold-toned metal hardware by Hermes of Paris; mirror included; 8¾"×7¼". Archives, Foreign. Recd: May 08, 1989. Est. value: $2695.	His Excellency Jacques Chirac, Mayor of Paris, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Flowers: three baskets of Barbara Bush roses; official use/display. Photograph: album of color and black and white photographs taken on occasion of the President and Mrs. Bush's trip for the Bicentennial of the French Revolution and the economic summit: Includes several photographs taken during the Reagan administration. Archives. Foreign. Recd: July 14, 1989. Est. value: $275.	Madame Jacques Chirac, wife of the Mayor of Paris, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Assortment: A set of six porcelain cups and saucers, re-edition of the "Tasse de Lumiere" produced by Sevres in 1794, made in Limoges, France; a crystal carafe, coq rouge, 8" tall; and a 35" square blue silk scarf by Francois de Reix. Archives, Foreign. Recd: July 13, 1989. Est. value: $650.	His Excellency Francois Mitterrand, President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: A pastel painting of two classical female marble figures in blue and gray tones on a reddish background; 30"×38" image. Cream matting with an antiqued silver/gold finish frame; 35½"×44" overall. Archives, Foreign. Recd: May 22, 1989. Est. value: $1500.	His Excellency Francois Mitterrand, President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.

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Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Artwork: Painting, "Tiergarten Berlin," by Reinhold W. Timm, signed, 1989; in black and gold-painted wood frame with plaque; 30½"×38" overall; Archives, Foreign. Household: A six piece porcelain mocha service, white with gold trim and a different design motiff on each; by Hochst. Residence: For official use/display. Recd: May 31, 1989. Est. value: $1150.	Mrs. Hannelore Kohl, wife of the Chancellor of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Clothing and accessories: A Kente stole in multi-colored geometric design: 22 inches × 6 feet. Archives. Foreign. Recd: March 10, 1989. Est. value: $250.	His Excellency Flt.-Lt. Jerry John Rawlings, Chairman, Provisional Natonial Defense Council of Ghana, Ghana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Clothing and accessories: A bright blue cashmere stole with embroidered edges. Approximat size 39"×79". Archives, Foreign. Recd: Nov 14, 1989. Est. value: $800.	His Excellency Karan Singh, Ambassador of India, India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A seven-part silver (835) tea service, including sugar spoon and 12 spoons, displayed in a red velvet-covered box. Archives. Foreign. Recd: June 15, 1989. Est. Value: $3,311.	His Excellency and Mrs. Soeharto, President of the Republic of Indonesia; Indonesia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A white linen tablecloth with embroidered floral design (72"×144") and twelve matching napkins (each 20" square); made in Ireland. Archives. Foreign. Recd: March 20, 1989. Est. Value: $1,100.	His Excellency Charles Haughey, Prime Minister of Ireland, Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: A pendant, designed as a tablet bearing a figure carrying grapes and a quotation from numbers 13:27; 18 kt. gold, sterling silver, and ruby chips, attached to sterling silver chain; displayed in an olivewood box with silver plaque attached to inner lid with English translation of quote: "and they told him and said, we came unto the land wither thou sentest us, and surely it floweth with milk and honey;" 1¾"×1" pendant designed by Michael Ende. Archives, Foreign. Recd: April 06, 1989. Est. Value: $3,000.	His Excellency Yitzhad Shamir, Prime Minister of Israel, Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Clothing and accessories: Black leather envelope style handbag with Chevron design; black tassle cord and a silver clasp with antique crystal setting: sewn by hand by Fendi of Italy: 9¾"×6". Archives, foreign. Recd: May 27, 1989. Est. Value: $600.	Mrs. Anna Maria de Mita, wife of the President of the Council of Ministers of the Italian Republic, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Two ceremonial dolls displayed in glass case; dolls are 5" and 6" tall respectively; case measures 21½"×13½"×12". Residence; for official use/display. Recd: February 02, 1989. Est. Value: $250.	Mrs. Noboru Takeshita, wife of the Prime Minister of Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: Two needlepoint pillow covers in an intricate geometrical design in predominate blues: 14" square. Archives, Foreign. Recd: September 12, 1989. Est. Value: $500.	His Royal Highness Hassan Bin Talal, Crown Prince of the Hashemite, Kingdom of Jordan, Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government
First Lady	Jewelry: 18 kt. gold necklace, octagonal pendant with Arab inscription on gold chain: Archives, Foreign. Photograph: Color photograph of Queen Noor and King Hussein, inscribed; in black leather frame: 11¼"×16" overall. Residence; for official use/display. Recd: April 19, 1989. Est. Value: $1,160.	Her Majesty Queen Noor, Jordan	Non-acceptance would cause embarrassment to donor and U.S. Government.

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Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Household: A mother-of-pearl and gold colored jewelry box in a geometric design on black lacquer, removable lid, and interior lift-out suede trays; inscribed; 15½" long, 11¾" deep, 7" high. Archives, Foreign. Recd: February 28, 1989. Est. Value: $250.	Mrs. Roh Tae Woo, wife of the President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: Sterling silver and gold-plated necklace and matching pierced earrings by "Tane;" enclosed in leather cases; Archives, Foreign. Book: "The Taste of Mexico," by Patricia Quintana; Published by Stewart, Tabori & Chang, New York, 1986. Archives, Foreign. Recd: October 03, 1989. Est. Value: $335.	Mrs. Cecilia Occeli De Salinas, wife of the President of the United Mexican States, Mexico.	Non-acceptance would cause embarrassment to donor and U.S. Government
First Lady	Flowers: An arrangement of lilies, lilacs, hydrangea, laurel, gladiola, peonies, delphinium, roses, and orchid stems in a reproduction Chinese porcelain Jardiniere; Residence; for official use/display. Household: Six champagne flutes, two covered condiments, a bud base, and a perfume bottle; all crystal by Baccarat; Archives, Foreign. Consumables: A white wicker basket filled with gourmet foodstuffs. Perishable. Recd: June 08, 1989. Est. Value: $1515.	His Majesty Hassan II, King of Morocco, Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government
First Lady	Jewelry: A pair of gold and diamond ear clips in a floral design. Archives, Foreign. Recd: June 06, 1989. Est. Value: $1300.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan, Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A linen tablecloth of "Aho-Poi" work, with blue geometric designs; measuring 12½ feet × 6 feet; and 18 complementary napkins measuring 14" × 18". Archives Foreign. Recd: September 26, 1989. Est. Value: $1500.	His Excellency Andres Rodriguez, President of the Republic of Paraguay, Paraguay.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Cosmetics: Three jars of cosmetic honey. Perishable. Recd: July 10, 1989, Est. Value: $15.	His Excellency and Mrs. Wojciech Jaruzelski, President of the Council of Ministers of the Polish People's Republic, Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: A sterling silver and colored glass necklace and bracelet set. Archives, Foreign Recd: July 12, 1989. Est. Value: $400.	The Honorable Kazimierz Rynkowski, Mayor of Gdansk, Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Assortment: Yellow beaded cotton caftan; multi-colored cotton prayer rug; blue and white canvas tote; brass tray, 10" in diameter; cap; coffee mug; T-shirt; apron; cassette tape; booklet; souvenir key chain, badge, and pin; silver and enamelled trinket box, 3" in diameter; and a silver, stone, and beaded necklace. Archives, Foreign. Recd: December 08, 1989. Est. Value: $264.	His Royal Highness Prince Bandar Bin Sultan Bin Abdulaziz, Ambassador of Saudi Arabia, Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Flowers: Large grapevine basket containing seven cybidium orchids. Residence; for official use/display. Recd: February 03, 1989. Est. Value: $250.	His Excellency Wilhelm Wachtmeister, Ambassador of Sweden and Dean of the Diplomatic Corps, Sweden.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A lacquered box depicting a fairytale scene of a king seated at a banquet table surrounded by his queen and entourage with three cranes in flight; No. 7546, 1981; 11" × 8" × 2". Residence; for official use/display Recd: December 02, 1989. Est. Value: $4,000.	Mrs. Raisa Gorbachev, Wife of the Chairman of the Supreme Soviet of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: A pedestal-style vase in pinkish quartz-like material on a black base; 7½" long., 4" high, 3¾" deep. Archives, Foreign. Recd: September 26, 1989. Est. Value: $200.	Mrs. Zulema Yoma De Menem, Wife of the President of Venezuela, Venezuela.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Household: A malachite box with removable lid, 6¼" × 4½" × 2"; Archives, Foreign. Household: A carved ebony lidded stand; 14½" High, 7" in diameter. Archives, Foreign. Recd: June 29, 1989. Est. Value: $350.	His Excellency Marshal Sese Seko Mobutu, President of the Republic of Zaire, Zaire.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robert D. Blackwill, Special Assistant to the President for National Security Affairs.	Household: A desk clock in the style of a painted Russian box; box measures 9½" × 5¾" × 2½" deep and depicts a church. Retained. Recd: December 02, 1989. Est. Value: $90.00.	His Excellency Mikhail Gorbachev Chairman of the Supreme Soviet of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
William J. Canary, Jr., Special Assistant to the President for Intergovernmental Affairs.	Food, lodging, and transportation within the Soviet Union; September 15–30, 1989.	Government of the Union of Soviet Socialist Republics.	Participation in foreign exchange sponsored by American Council of Young Political Leaders.
Max Marlin Fitzwater, Assistant to the President and Press Secretary.	Household: One Russian lacquered box measuring 3" × 5¼" × 1¼" deep. Presidential Staff; for official use/display. Recd: December 02, 1989. Est. Value: $250.	His Excellency Mikhail Gorbachev, Chairman of the Supreme Soviet of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robert M. Gates, Assistant to the President and Deputy for National Security Affairs.	Artwork: A 31" × 41" woven wool picture of three figures; on wood frame. GSA. Recd: April 27, 1989. Est. Value: $350.	His Excellency Abdallah Kallel, Minister of National Defense of Tunisia, Tunisia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Barbara Jobe, Trip Coordinator, Presidential Advance Office.	Jewelry: A 1½" × 1¾" decorative pin. GSA. Recd: Dec. 02, 1989. Est. Value: $200.	His Excellency Mikhail Gorbachev, Chairman of the Supreme Soviet of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Eric D.K. Melby, Director, International Economic Affairs, National Security Council.	A bronze medallion highlighting the newly built Arche De La Defense, site of the summit meetings, and lettered on the reverse "Sommet De L'Arche 14–16 Juillet 1989" with a facsimile of President Mitterrand's signature, 3⅜" in diameter; Presidential staff; for official use/display. Clothing and accessories: A black leather briefcase by Longchamp lettered underneath the foldover flap "Sommet De L'Arche 14–16 Juillet 1989.". GSA. Recd: July 16, 1989. Est. Value: $350.	His Excellency Francois Mitterrand, President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Condoleezza Rice, Director, European and Soviet Affairs, National Security Council.	Household: A desk clock in the style of a painted Russian box; box measures 9¾" × 6½" × 2½" deep and depicts a medieval scene. Retained. Recd: Dec. 02, 1989. Est. Value: $75.00.	His Excellency Mikhail Gorbachev, Chairman of the Supreme Soviet of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brent Scowcroft, Assistant to the President for National Security Affairs.	Household: A 10" tall cinnabar vase, 4¾" in diameter with a separate wood stand. Presidential staff; for official use/display. Recd: Apr. 15, 1989. Est. Value: $200.	Government of the People's Republic of China, People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brent Scowcroft, Assistant to the President for National Security Affairs.	Household: A woven wool carpet, 34" × 50" overall, in tones of brown, beige, tan, and gray depicting palm trees, houses, and animals; and an inlaid wooden box with red felt-like lining. Presidential staff; for official use/display. Recd: Aug. 08, 1989. Est. Value: $275.	General Youssef Sabri Abou Taleb, Commander-in-Chief of the Armed Forces of the Arab Republic of Egypt, Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brent Scowcroft, Assistant to the President for National Security Affairs.	Household: An 8-day wind up clock by L'Eppe in a brass and beveled glass case; plate on back reads "Declaration Des Droits De L'Homme Et Du Citoyn;" engraved on bottom of clock "Bicentenaire De La Revolution Francaise.—1989." (1789/Bi-Centenaire No. 411). Presidential staff; for official use/display. Recd: July 16, 1989. Est. Value: $750.	His Excellency Jacques Attali, Special Counselor to the President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Brent Scowcroft, Assistant to the President for National Security Affairs.	A bronze medallion highlighting the newly built Arche De La Defense, site of the summit meetings, and lettered on the reverse "Sommet De L'Arche 14-16 Juillet 1989" with a facsimile of President Mitterrand's signature, 3⅝" in diameter; and a black leather briefcase by Longchamp lettered underneath the foldover flap "Sommet De L'Arche 14-16 Juillet 1989". GSA. Recd: July 16, 1989. Est. Value: $350.	His Excellency Francois Mitterrand, President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brent Scowcroft, Assistant to the President for National Security Affairs.	Household: A 38" × 68" silk oriental rug (new) in tones of rust, peach, beige, and light green. Presidential staff; for official use/display. Recd: June 06, 1989. Est. Value: $1,075.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan, Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brent Scowcroft, Assistant to the President for National Security Affairs.	A 5" × 3" × 1⅝" deep painted lacquer box featuring a fairytale scene and a metal panel on wood representing the month of "March". Presidential staff; for official use/display. Recd: Nov. 21, 1989. Est. Value: $1,400.	His Excellency Anatoliy F. Dobrynin, Adviser to the Chairman of the Supreme Soviet Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brent Scowcroft, Assistant to the President for National Security Affairs.	Artwork: A handcrafted copper-tone artwork of bird in brown wood frame; 13½" × 26" overall. Presidential staff; for official use/display. Recd: June 29, 1989. Est. Value: $400.	His Excellency Marshal Sese Seko Mobuto, President of the Republic of Zaire, Zaire.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John H. Sununu, Chief of Staff to the President.	Household: A 10" tall cloisonne vase, 6¼" in diameter; with separate wood stand. Presidential staff; for official use/display. Recd: Dec. 20, 1989. Est. Value: $350.	His Excellency Zhu Qizhen, Ambassador of the People's Republic of China, People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John H. Sununu, Chief of Staff to the President.	Household: A 38"×68" silk Oriental rug (new) in tones of rust, peach, beige, and light green. Presidential staff; for official use/display. Recd: June 06, 1989. Est. Value: $1,075.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan, Pakistan.	Non-acceptance would cause embrassassment to donor and U.S. Government.
Vice President and Mrs. Quayle	Six books on Thailand: "His Majesty & His Development Work"; "The Royal Palace"; "The Sights of Rattanakosin"; "Royal Ceremonies"; "Monarchs and the Thailand People"; 9 booklets in a volume on Thailand. ($100) Archives. Hand woven maroon tapestry fabric presented in gold fabric box—very handsome. ($100) Archives. Red leather box with silver coin inside—may be Thai coin. ($15) Pewter miniature elephants. ($80) Archives. Recd: May 26, 1989. Est. Value: $295.00.	Bhumibol Adulyadej, King of Thailand	Non-acceptance would have caused donor embrassassment.
Vice President and Mrs. Quayle	Blue ceramic urn with lid about 12" tall in presentation box on display at House. ($150). Residence (House). Ceramic dish (matches urn given to VP—Control #891189) about 14" diameter—hand painted and glazed blue in color. On display at House ($125). Residence (House). Recd: Sept. 27, 1989. Est. Value: $275.00.	Corazon C. Aquino, President of the Republic of the Philippines.	Non-acceptance would have caused donor embrassassment.
Vice President and Mrs. Quayle	Sea weed snacks. ($15). Gift destroyed. Recd: Sept. 21, 1989. Est. Value: $15.00.	Tae Woo Roh, President, Republic of Korea.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Large white porcelain vase—18" tall. ($300) Archives. Recd: Sept. 21, 1989. Est. Value $300.00.	Tae Woo Roh, President, Republic of Korea.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	Large lacquered jewel box 10 x 14—8" tall with mother of pearl scene on top. Very attractive box presented in pink suede, autographed by Mrs. Roh. ($350). Archives. Recd: Sept. 21, 1989. Est. Value: $350.00.	Tae Woo Roh, President Republic of Korea.	Non-acceptance would have caused donor embarrassment.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President and Mrs. Quayle	Silver tea service, pot, tray, creamer, sugar, waste bowl, 6 teaspoons, 1 sugar spoon. ($450). Archives. Recd: May 17, 1989. Est. Value: $450.00.	His excellency Soeharto, President Republic of Indonesia.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Mans silk shirt—given in red velvet box. ($150). Archives. Recd: May 17, 1989. Est. Value: $150.00.	His excellency Soeharto, President Republic of Indonesia.	Non-acceptance would have caused donor embarrassment.
Vice President and Mrs. Quayle	Large blue silk fabric with diamond design multi color. ($135). Silk fabric woven in earth tones—more like long scarf. ($80). Large elegant piece of purple fabric with golden threads woven through. ($300). Hand carved plaque in wooden box. ($100). Silver necklace, bracelet and earrings. ($150). Archives. Recd: May 26, 1989. Est. Value: $765.00.	Sawai Prammanee, Governor of Nakornrachasima Province Thailand.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	A very handsome black lacquered box measuring 4½" x 4½". The lid is a brightly painted folk lore scene edged in gold trim. Interior of box is red. ($800). Archives. Recd: Nov. 30, 1989. Est. Value: $800.00.	Fedor M. Burlatsky, Member of Supreme Soviet of the Union of Soviet Socialist Republic.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	8 original serigraphs by Raphael Abecassis "Song of Songs". Archives. ($3,000). Recd: April 6, 1989. Est. Value: $3,000.00.	Yitzhak Shamir, Prime Minister of Israel	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Wall hanging—very large—sent to Archives. (Indeterminable value). Books: "Hussain Muhammad Ershad, Selected Poems" published by Raushan Ershad Dkyview P New Senpara Rangpur, Bangladesh ($22 U.S.); "Era of Sheikh Mujibur Rahman" by Moudud Ahmed, The University Press. Unlimited. ($22 U.S.). Archives. Recd: April 7, 1989. Est. Value: Indeterminable.	Ahmed Moudud, Prime Minister of Bangladesh.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Silver cigarette box—7" x 3½" with the Jordan Crest. ($600) "Jordan—A Land For All Seasons". ($50). 11" x 4" colored photograph of King and Queen of Jordan in burgundy leather standing frame trimmed in gold leaf—inscribed. ($150). 10"x18" backgammon set—inlaid. ($1,500). (On display at House) Archives. Recd: April 14, 1989. Est. Value: $2,300.00.	King Hussein, I, Hashemite Kingdom of Jordan.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Hand painted Bowl or urn with top presented in blue silk box. The urn is 8" high—with top 12". It is China with blue background and gold diamonds—9" diameter. ($600). Archives. Recd: May 17, 1989. Est. Value: $600.00.	Chatichai Choonhaven, Prime Minister, Kingdom of Thailand.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Scroll and pottery vase in plastic case—3" tall. Impossible to value—4th century B.C. Archives. Recd: May 23, 1989. Est. Value: Indeterminable.	Yitzhak Rabin, Minister of Defense of Israel.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Vase—2½ feet tall on wooden stand, deep wine red on outside—white inside—$300, on display in residence. Official photo framed of Wan Li. $100. Archives. Recd: May 25, 1989. Est. Value: $400.00.	Wan Li, Chairman of the Standing Committee of the National People's Congress of China.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	China plate with blue medallions painted on it about 5" in diameter—could be valuable as antique. Archives. Recd: May 26, 1989. Est. Value: Indeterminable.	Goh Chok Tong, 1st Minister of Defense, Republic of Singapore.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Original colorful native painting of El Salvador village. 18×24. Colorful lithograph signed by artist. 18×24. Archives. Recd: June 15, 1989. Est. Value: $400.00.	Alfredo Cristiani, President of El Salvador.	Non-acceptance would have caused donor embarrassment.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President Dan Quayle	Framed wood hand carving 2×4 of Oriental dragons. Difficult to value because of the uniqueness of the gift. Archives. Recd: June 15, 1989. Est. Value: Indeterminable.	His Excellency Soeharto, President of the Republic of Indonesia.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Rug—Pakistan 4×6 Oriental in pale colors. On display at residence. ($1,500). Recd: June 15, 1989. Est. Value: $1,500.00.	Mohtrama Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Red wool Indian Oriental rug, about 4×6. On display in MTQ Office. ($900). OEOB Office. Recd: June 29, 1989. Est. Value: $900.00.	Krishna Chandra Pant, Minister of Defense of Republic of India.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	12" high 12" diameter glazed white vase. ($350). Archives. Recd: Sept. 19, 1989. Est. Value: $350.	Young-Hoon Kang, Prime Minister, Republic of Korea.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Wood framed, modern print entitled "Light and Sound" 2"×3". ($350). Archives. Recd: Sept. 21, 1989. Est. Value: $350.00.	Roh Tae Woo, President, Republic of Korea.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Silver frame with picture of Prime Minister Kaifu. ($150). Large wooden frame with hand crafted scene. ($200). Archives. Recd: Sept. 23, 1989. Est. value: $350.00.	Toshiki Kaifu, wife of Prime Minister of Japan.	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Two silver flower vases, about 12" high—on display at residence. ($1,850). One 10"×14" silver frame. ($360). Archives. Recd: Sept. 26, 1989. Est. value: $2,210.00.	Emperor and Empress of Japan	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Silver framed photo 10×14—inscribed to VP. ($150). Archives. Silver tray—about 14×20 with Cossiga's sign engraved in corner of tray. ($500). On display at residence. Recd: Oct. 11, 1989. Est. value: $650.00.	Francesco Cossiga, President of Italy	Non-acceptance would have caused donor embarrassment.
Vice President Dan Quayle	Large gilded "Atlas de Joan Martines 1587" #2410 of 5,000 copies. 24"×18". Indeterminable value. Archives. Recd: Oct. 19, 1989. Est. value: Indeterminable.	Felipe Gonzalez Macquez, Prime Minister, Spain.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	Silver choker 20" and bracelets ($175). 20" fresh water pearls, pink color ($250). Archives. Recd: April 06, 1989. Est. value: $425.00.	Hasna Moudud, wife of the Prime Minister of Bangladesh.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	Carved Indonesian temple. Presented in glass case. Value: Indeterminable. On display at House. Recd: May 26, 1989. Est. value: Indeterminable.	H. Muhammad Ismail, Governor of Central Java, Indonesia.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	12×30 painting on wood, with 1918 at the bottom. (Indeterminable value). Archives. Book on Russia. (On Display at House), two dolls (on display at House). Recd: Dec. 12, 1989. Est. value: Indeterminable.	Mayor Spitak, Union of Soviet Socialist Republic.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	Silk fabric—gold, black and white—presented in red velvet box. ($105). Stone (translucent) marble bowl with silver medallions on the upper brim and base—12" dia 3" high. ($250). Archives. Tile 12"×12" of theater in Indonesia shows Imax film of beauty of Indonesia. Theater is called "Keong Emas" Theater. ($30). Archives. Recd: May 17, 1989. Est. Value: $385.	E N Sudharmono, Vice President of the Republic of Indonesia.	Non-acceptable would have caused donor embarrassment.
Marilyn Tucker Quayle	Table cloth—silk dusty pink background—hand embroidered scenes. ($300). Archives. Recd: May 22, 1989. Est. Value: $300.00.	Wan Li, Chairman of the Standing Committee of the National People's Congress of China.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	18k gold and diamond leaf earrings ($750). Archives. Recd: June 15, 1989. Est. Value: $750.00.	Mohtrama Benazir Bhutto, Prime Minister, Pakistan.	Non-acceptance would have caused donor embarrassment.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 thru Dec. 31, 1989

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Marilyn Tucker Quayle	Polished red wooden box (jewelry box) with mother of pearl scene on lid and sides—($200). Archives. Recd: Sept. 19, 1989. Est. Value: $200.00.	Young-Hoon Kang, Prime Minister of the Republic of Korea.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	Large Japanese doll in glass box. ($250.00). Archives. Recd: Sept. 22, 1989. Est. Value: $250.00.	Mayor Malomechi, Oshima Island, Tokyo, Japan.	Non-acceptance would have caused donor embarrassment.
Marilyn Tucker Quayle	Large Japanese doll presented in box. ($450.000). Archives. Recd: Sept. 26, 1989. Est. Value: $450.00.	Mrs. Kuwae, wife of Mayor of Okinawa, Japan.	Non-acceptance would have caused donor embarrassment.
Vice President and Mrs. Quayle	Leather 8"×10" frame. ($100). Embroidered dress in teal. ($50). Framed 10"×14" page from the Holy Quaran ($175). Archives. Recd: Sept. 13, 1989. Est. Value: $325.00.	Hassan Bin Talal, Crown Prince of Jordan.	Non-acceptance would have caused donor embarrassment.

AGENCY: UNITED STATES SENATE

Report of Tangible Gifts

Name and title of persons accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert C. Byrd, U.S. Senator	Decorative display bowl, Recd—January 12, 1988. Est. value—$500 to $1,000. Deposited with the Secretary of the Senate.	Noboru Takeshita, Former Prime Minister of Japan.	Refusal would likely cause offense or embarrassment.
Bill Bradley, U.S. Senator	Hand-painted lacquered box, Recd—April 28, 1989. Est. value—$500. Disposition: Displayed in Senator's Office.	Nikolai Ryzhkov, Prime Minister, USSR	Refusal would likely cause offense or embarrassment.
	Nest of 3 black lacquered boxes, Recd—May 3, 1989. Est. value—$200. Disposition: Displayed in Senator's office.	Tustomu Hata, Minister of Agriculture, Japan.	Refusal would likely cause offense or embarrassment.
Dennis DeConcini, U.S. Senator	Two silken embroidered robes, Recd—May 23, 1989. Est. value—$110 to $120. Deposited with the Secretary of the Senate.	Khalifa Bin Salman Al Khalifa, Prime Minister of Bahrain.	Refusal would likely cause offense or embarrassment.
Robert Dole, U.S. Senator	Black glass case with two Japanese dolls measuring 21x11½×13, Recd—February 3, 1989. Est. value—$200 to $300. Disposition: Displayed in Senator's office.	Noboru Takeshita, Prime Minister, Japan.	Refusal would likely cause offense or embarrassment.
Edward M. Kennedy, U.S. Senator	Contemporary Russian lacquered hinged top box with polychromed view of Moscow, measuring 6¼"×3¼x1¼, Recd—January 10, 1989. Est. value—in excess of $100. Disposition: Display in Senator's office.	Mikhail S. Gorbachev, Chairman of the Presidium of the Supreme Soviet of the USSR.	Refusal would likely cause offense or embarrassment.
		Mohtrama Benazir Bhutto, Prime Minister of Pakistan.	Refusal would likely cause offense or embarrassment.
	Pakistani Kirman tree of life prayer rug, Recd—June 14, 1989. Est. value—$1,250. Disposition: Display in Senator's office.	Kim Young Sam, President, Reunification Democratic Party of Republic of Korea.	Refusal would likely cause offense or embarrassment.
	Oriental Celadon vase, Recd—June 14, 1989. Est. value—$200. Disposition: Display in Senator's office.		
Connie Mack, U.S. Senator	Cloisanne enamel vase, Recd—August 20, 1989. Est. value—$217. Disposition: Display in Senator's office.	Lee Huan, Premier, Republic of China (Taiwan).	Refusal would likely cause offense or embarrassment.
George J. Mitchell, U.S. Senator	Book "Buller's Birds of New Zealand", Recd—June 19, 1989. Est. value—$200. Deposited with the Secretary of the Senate.	Kerry Burke, Speaker of the New Zealand House of Representatives.	Refusal would likely cause offense or embarrassment.
	Wooden lined silver box engraved with "Septiembre De 1989", Recd—September 28, 1989. Est. value—$200 to $250. Deposited with the Secretary of the Senate.	Virgilo Barco, President of Colombia	Refusal would likely cause offense or embarrassment.

AGENCY: UNITED STATES SENATE—Continued

Report of Tangible Gifts

Name and title of persons accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Daniel P. Moynihan, U.S. Senator	Persian rug, Recd—February, 1989. Est. value—$250. Disposition: Display in Senator's office.	Benazir Bhutto, Prime Minister of Islamic Republic of Pakistan.	Refusal would likely cause offense or embarrassment.
	Set of Hungarian China, Recd—October 12, 1989. Est. value—$300. Deposited with the Secretary of the Senate.	Dr. Matyas Szuros, President of the National Assembly of the Hungarian People's Republic.	Refusal would likely cause offense or embarrassment.
David Pryor, U.S. Senator	Korean painting, Recd—November, 1989. Est. value—$150 to $250. Disposition: Display in Senator's office.	Roh Tae-Woo, President of Korea	Refusal would likely cause offense or embarrassment.

AGENCY: UNITED STATES SENATE

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Charles Battaglia, Designee, Select Committee on Intelligence.	Lodging and meals in host country	22 USC 1754(b)	22 USC 1754(b).
Ian Butterfield, Professional Staff, Committee on Governmental Affairs.	Transportation, food and lodging in country, July 2-8, 1989. Estimated value—$842.	Government of U.S.S.R.	International delegation North Atlantic Assembly.
William S. Cohen, U.S. Senator	Lodging and meals for one night, June 9, 1988. Estimated value—$132.	German Democratic Republic	Multinational conference on East-West relations.
Dennis J. Culkin, Legislative Assistant to Senator Heinz.	Transportation within Kenya including lodging and meals, September 3-5, 1989. Estimated value—$806.	Government of Republic of Kenya	Fact-finding trip.
Thomas A. Daschle, U.S. Senator	Air transportation within China, August 19, 21, 23, 26 27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.
Linda Daschle, Spouse of Senator Daschle.	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	Do.
Robert Dole, U.S. Senator	Transportation, lodging and meals in country, August 22-24, 1989. Estimated value—$232.	Armenian Soviet Socialist Republic, U.S.S.R.	U.S. Senate delegation.
John Doney, Assistant Secretary for the Minority.	Air transportation, Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Fact-finding trip.
	Ground Transportation Sydney and Canberra. January 12-15, 1988.	Government of Australia	Do.
Dave Durenberger, U.S. Senator	Air transportation New Delhi-Pathankot, August 31, 1989.	Government of India	To meet with Dalai Lama.
	Round trip ground transportation, Pathankot-Dharamsala, India. August 31, 1989.	Do	Do.
	Ground Transportation in Toronto, Canada, June 11-13, 1989.	The Honorable David Peterson, Premier, Province of Ontario, Canada.	To meet with Canadian Government officials
J. James Exon, U.S. Senator	Air Transportation, Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Fact-finding trip.
	Ground Transportation Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do.
Patricia Exon, Spouse of Senator Exon	Air Transportation, Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Do.
	Ground Transportation Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do.
Carl Feldbaum, Administrative Assistant, Senator Specter.	Lodging and meals for two nights January 10-11, 1989.	Government of Saudi Arabia	To meet with government officials.
Richard D. Finn, Jr., Professional Staff Member, Committee on Armed Services.	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Fact-finding trip.
	Ground Transportation Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do.
William A. Gillon, Majority Counsel, Committee on Agriculture.	Air Transportation Wellington-Mt. Cook-Christchruch, January 15-17, 1988.	Government of New Zealand	Do.
	Ground Transportation Sydney and Canberra, January 12-15,1988.	Government of Australia	Do.
Albert Gore, Jr., U.S. Senator	Small aircraft overflight of Amazon rainforest, January 15, 1989.	Government of Porto Vehlo, Brazil	U.S. Senate delegation.

AGENCY: UNITED STATES SENATE—Continued

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Kenneth B. Handelman, Legislative Assistant, Senator Metzenbaum.	Transportation, food and lodging in country, September 3-5, 1989. Estimated value—$806.	Government of Republic of Kenya	Fact-finding trip.
Ms. Adele C. Hanson, Personal Secretary, Senator Exon.	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Do.
	Ground Transportation in Sydney and Canberra, January 12-15,1988.	Government of Australia	Do.
Tom Harkin, U.S. Senator	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Do.
	Ground Transportation in Sydney and Canberra January 12-15, 1988.	Government of Australia	Do.
Ruth Harkin, Spouse of Senator Harkin	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Do.
	Ground Transportation in Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do
Elizabeth Ann Heflin, Spouse of Senator Heflin.	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Do
	Ground Transportation Syndey and Canberra, January 12-15, 1988.	Government of Australia	Do.
John Heinz, U.S. Senator	Small aircraft overflight Amazon rainforest January 15, 1988.	Government of Porto Velho, Brazil	Do.
Theresa Heinz, Spouse of Senator Heinz.	do	do	Do.
Robert F. Hurley, Minority Staff Director, Committee on Environment and Public Works.	Round trip air transportation, Baghdad to Basra. Round trip to ground transportation, Basra to Faw, December 11, 1988. Estimated value—$180.	Republic of Iraq	Do.
Neal Houston, Administrative Assistant, Former Senator Stafford.	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.
Georgia Joyal, Executive Assistant, Senator Leahy.	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Repulic of China.	Do.
William N. LaForge, Chief of Staff, Senator Cochran.	Round trip air transportation, Baghdad to Basra. Round trip ground transportation, Basra to Faw, December 11, 1988. Estimated value—$180.	Republic of Iraq	Fact-finding trip.
Patrick J. Leahy, U.S. Senator	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.
Marcelle Leahy, Spouse of Senator Leahy.	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	Do.
Alfred Lehn, National Security Affairs, Advisor, Senator Dole.	Transportation, meals and lodging in country, August 22-24, 1989. Estimated value—$232.	Armenian Soviet Socialist Republic, U.S.S.R.	U.S. Senate delegation.
Annie Lesher, Legislative Assistant, Senator Mikulski.	Transportation, food and lodging in country, July 2-8, 1989. Estimated value—$842.	Government of U.S.S.R	International delegation, North Atlantic Assembly.
Ellen Lovell, Administrative Assistant, Senator Leahy.	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.
Bruce W. MacDonald, Legislative Assistant, Senator Bumpers.	Transportation, food and lodging in country, September 3-5, 1989. Estimated value—$806.	Government of Republic of Kenya	Fact-finding trip.
Jerold Mande, Legislative Assistant, Senator Gore.	Small aircraft overflight, Amazon rainforest, January 15, 1989.	Government of Porto Velho, Brazil	U.S. Senate delegation.
Jim Martin, Legislative Assistant, Senator Wirth.	Small aircraft flight, Asuncion to Mbaracayu Nature Preserve, January 10, 1989.	Government of Republic of Paraguay	Do.
	Small aircraft overflight, Amazon rainforest, January 15, 1989.	Government of Porto Velho, Brazil	Do.
Kevin McManus, Democratic Policy Committee.	Small aircraft flight, Asuncion to Mbaracayu Nature Preserve, January 10, 1989.	Government of Republic of Paraguay	Do.
	Small aircraft overflight Amazon rainforest, January 15, 1989.	Government of Porto Velho, Brazil	Do.
John Melcher, Former U.S. Senator	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Fact-finding trip.
	Ground Transportation Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do.
Ruth Melcher, Spouse of Senator Melcher.	Same as Senator Melcher		

AGENCY: UNITED STATES SENATE—Continued

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Edmund Mihalski, Minority Chief of Staff, Committee on Finance.	Round trip air transportation, Baghdad to Basra. Round trip ground transportation, Basra to Faw, December 11, 1988. Estimated value—$180.	Republic of Iraq	Do.
Barbara A. Mikulski, U.S. Senator	Transportation, food and lodging in country, July 2-8, 1989. Estimated value—$842.	Government of U.S.S.R	International delegation, North Atlantic Assembly.
Steven H. Moore, Legislative Director, Senator Durenberger.	Ground transportation in Toronto, Canada, June 11-13, 1989.	The Hon. David Peterson, Premier, Province Ontario, Canada.	To meet with Canadian government officials.
John H. Moseman, Chief of Staff, Senator Murkowski.	Round trip air transportation, Baghdad to Basra. Round trip ground transportation, Basra to Faw, December 11, 1988. Estimated value—$180.	Republic of Iraq	Fact-finding trip.
Eric Newsom, Legislative Director, Senator Leahy.	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.
Jan Paulk, Director, Office of Interparliamentary Services.	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	Do.
	Transportation, food and lodging in country, August 22-24, 1989. Estimated value—$232.	Armenian Soviet Socialist Republic, U.S.S.R.	U.S. Senate delegation.
Alan Porter, Director of Senate Photographic Studio.	Transportation, food and lodging in country, August 22-24, 1989. Estimated value—$232.	Armenian Soviet Socialist Republic, U.S.S.R.	U.S. Senate delegation.
Larry Pressler, U.S. Senator	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Fact-finding trip.
	Ground Transportation in Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do.
Harriet Pressler, Spouse of Senator Pressler.	Same as Senator Pressler		
Richard Quinn, Staff Assistant, Senator Dole.	Transportation, food and lodging in country, August 22-24, 1989. Estimated value—$232.	Armenian Soviet Socialist Republic, U.S.S.R.	U.S. Senate delegation.
Charles Riemenschneider, Chief of Staff, Committee on Argiculture.	Air transportation within China, August 19, 21, 23, 26,27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.
Walt Riker, Press Secretary, Senator Dole.	Transportation, food and lodging in country within Armenia, August 22-24, 1989. Estimated value—$232.	Armenian Soviet Socialist Republic, U.S.S.R.	U.S. Senate delegation.
Charles S. Robb, U.S. Senator	Transportation, food and lodging in country, July 2-8, 1989. Estimated value—$842.	Government of U.S.S.R	International delegation, North Atlantic Assembly.
Richard Roberts, Administrative Assistant, Senator Shelby.	Small aircraft flight, Asuncion to Mbaracayu Nature Preserve, January 10, 1989.	Government of Republic of Paraguay	U.S. Senate delegation.
	Small aircraft overflight of Amazon rainforest, January 15, 1989.	Government of Porto Velho, Brazil	Do.
Kirk K. Robertson, Legislative Assistant, Senator Pryor.	Transportation within Kenya including lodging and meals, September 3-5, 1989. Estimated value—$806.	Goverment of Republic of Kenya	Fact-finding trip.
William V. Roth, Jr., U.S. Senator	Transportation, food and lodging in country, July 2-8, 1989. Estimated value—$842.	Government of U.S.S.R	International delegation, North Atlantic Assembly.
C. Abbott Saffold, Secretary for Majority.	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Fact-finding trip.
	Ground Transportation Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do
Andrew K. Semmel, Foreign Policy Advisor, Senator Lugar.	Round-trip air transportation Baghdad-Basra. Round-trip ground transportation Basra-Faw, December 11, 1988. Estimated value—$180.	Republic of Iraq	Do.
Richard C. Shelby, U.S. Senator	Small aircraft flight Asuncion to Mbaracayu Nature Preserve, January 10, 1989.	Government of Republic of Paraguay	U.S. Senate delegation.
	Small aircraft overflight of Amazon rainforest, January 15, 1989.	Government of Porto Velho, Brazil	Do.
Annette Shelby, Spouse of Senator Shelby.	Same as Senator Shelby		
Arlen Specter, U.S. Senator	Lodging and meals for two nights, January 10-11, 1989.	Government of Saudi Arabia	To meet with Government officials.
Robert Stafford, Former U.S. Senator	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.

AGENCY: UNITED STATES SENATE—Continued

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Helen Stafford, Spouse of Senator Stafford.	Air transportation within China, August 19, 21, 23, 26, 27, 1988.	Government of People's Republic of China.	Do.
Walter J. Stewart, Secretary of the Senate.	Transportation, food and lodging in country, July 2-8, 1989. Estimated value—$842.	Government of U.S.S.R	International delegation, North Atlantic Assembly.
	Air transportation within China, August 19, 21, 23, 26, 27, 1988. Estimated value—$595.	Government of People's Republic of China.	No other means of transportation.
Jeffrey Subko, Legislative Assistant, Senator Exon.	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17, 1988.	Government of New Zealand	Fact-finding trip.
	Ground Transportation Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do.
Sally Walsh, Office of Interparliamentary Services.	Small aircraft flight, Asuncion to Mbaracayu Nature Preserve, January 10, 1989.	Government of Republic of Paraguay	U.S. Senate delegation.
	Small aircraft overflight Amazon rainforest, January 15, 1989.	Government of Poro Velho, Brazil	Do.
	Air Transportation Wellington-Mt. Cook-Christchurch, January 15-17,188.	Government of New Zealand	Fact-finding trip.
	Ground Transportation Sydney and Canberra, January 12-15, 1988.	Government of Australia	Do.
Timothy E. Wirth, U.S. Senator	Small aircraft flight Asuncion to Mbaracayu Nature Preserve, January 10, 1989.	Government of Republic of Paraguay	Do.
	Small aircraft overflight Amazon rainforest, January 15, 1989.	Government of Porto Velho, Brazil	Do.
Wren Wirth, Spouse of Senator Wirth	Same as Senator Wirth		

AGENCY: U.S. HOUSE OF REPRESENTATIVES

Report of Tangible Gifts

Amended 1988 report to reflect disclosure statements received in 1989

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Thomas F. Foley, Speaker of the House.	Oriental rug. Recd June 14, 1989. Est. value—$750. Approved for official display.	Mohtrama Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor.
Matthew F. McHugh, Member of Congress.	Waterford crystal claret decanter. Recd May 31, 1989. Est. value—$220 to 250. Approved for official display.	Padraic N. MacKernan, Ambassador of Ireland.	Non-acceptance would have caused embarrassment to donor.
Ted Weiss, Member of Congress	Bohkara rug. Recd January, 1989. Est. value—$500. Approved for official display.	Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor.
Wayne Owens, Member of Congress	Gold Saudi Arabian ceremonial dagger Recd December 1988. Est. value—unknown. Deposited with Clerk for disposition.	Prince Mohammed biu Fahd, Governor of Eastern Provinces of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor.

AGENCY: U.S. HOUSE OF REPRESENTATIVES

Report of Travel or Expenses of Travel

Amended 1988 report to reflect disclosure statements received in 1989

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
Charles W. Stenholm, Member of Congress.	Travel within Australia and New Zealand, Nov. 11-23, 1988.	Australian Livestock and Meat Board/New Zealand Livestock and Dairy Board (Quasi-govern. agencies).	Fact-finding tour.
Robin Tallon, Member of Congress	Travel within Australia and New Zealand, Nov. 11-23, 1988.	Australian Livestock and Meat Board/New Zealand Livestock and Dairy Board (Quasi-govern. agencies).	Fact-finding tour.
Arthur J. Simonetti, Rep. Dick Schulze	Transportation, meals, and lodging in Japan, Feb. 7-14, 1988.	Government of Japan	(MECA).

AGENCY: U.S. HOUSE OF REPRESENTATIVES—Continued

Report of Travel or Expenses of Travel

Amended 1988 report to reflect disclosure statements received in 1989

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
Joanna R. Shelton, Ways and Means Committee.	Transportation, lodging and meals, in Japan, Oct. 15-25, 1988.	Government of Japan	(MECA).
Jim Olin, Member of Congress	Food, lodging and transportation in USSR for 7 days. (Notwithstanding traveler has made partial reimbursement for food, lodging and transportation received, full disclosure is made.).	Soviet Academy of Sciences	Fact-finding tour.
John M. Spratt, Jr., Member of Congress.	Food, lodging and transportation in USSR for 7 days. (Notwithstanding traveler has made partial reimbursement for food, lodging and transportation received, full disclosure is made.).	Soviet Academy of Sciences	Fact-finding tour.
Gus Savage, Member of Congress	Hotel accommodations at Kinshasa Intercontinental Hotel for 5 days. Est. value—$1,375.	Government of Zaire	Fact-finding tour.
Gus Savage, Member of Congress	Hotel accommodations at Abidjan Intercontinental Hotel for 4 days. Est. value—$1,260.	Ivory Coast Golf Federation	Fact-finding tour.
Meredith Broadbent, Ways and Means Committee.	Transportation between Washington and Brussels with stops in Paris, Rome and Bonn.	European Community's Visitors Program, Brussels, Belgium.	Mutual Education and Cultural Exchange Act (MECA).
Daniel P. Finn, Foreign Affairs Committee.	Travel between Beijing, Shanghai, Zian and Guangzhai, China.	Ambassador Chai Zemin, VP, Chinese People's Institute of Foreign Affairs.	(MECA).
Sam E. Fowler, Interior Committee	Ground transportation, meals, and services of English-speaking guides between Paris, Avignon and LaHague, France.	French Atomic Energy Commission	Fact-finding tour.
Sam E. Fowler, Interior Committee	Ground transportation and meals, in connection with tours of nuclear waste facilities in Sweden.	Ministry of Environment and Energy and Sweden's Nuclear Fuel and Waste Management Company.	Fact-finding tour.
Thomas S. Kahn, Rep. John M. Spratt, Jr.	Food, lodging and transportation in USSR for 7 days. (Notwithstanding traveler has made partial reimbursement for food, lodging and transportation received, full disclosure is made.).	Soviet Academy of Sciences	Fact-finding tour.
Joel D. Kassiday, Rep. Hank Brown	Airfare, food and lodging in Japan. Est. value—$2,708.	Ministry of Foreign Affairs, Tokyo, Japan.	(MECA).
Mark J. Molli, Rep. Gus Hawkins	Food, lodging and transportation in Italy for 6 nights.	Ministry of Public Education, Department of Cultural Exchange, Italy.	Fact-finding/substantial participation.
Kennon H. Nakamura, Foreign Affairs Committee.	Travel between Beijing, Shanghai, Xi'an and Guangzhou, China.	Amabessador Chai Zemin, VP, Chinese People's Institute of Foreign Affairs.	(MECA).
David A. Nathan, Rep. Constance Morella.	Airfare, food and lodging in Japan. Est. value—$2,700.	Ministry of Foreign Affairs, Tokyo, Japan.	(MECA).
Charles R. O'Regan, Rep. Dante Fascell.	Airfare, food and lodging in Japan	Ministry of Foreign Affairs, Tokyo, Japan.	(MECA).
Thomas M. Parkhurst, Rep. Matt McHugh.	Airfare, food and lodging in Japan	Ministry of Foreign Affairs, Tokyo, Japan.	(MECA).
Louanner Peters, Rep. Gus Savage	Hotel accommodations at Kinshasa Intercontinental Hotel for 5 days. Est. value—$725.	Government of Zaire	Fact-finding tour.
Louanner Peters, Rep. Gus Savage	Hotel accommodations at Abidjan Intercontinental Hotel for 3 days. Est. value—$390.	Ivory Coast Golf Federation	Fact-finding tour.
Pamela W. Robinson, Consultant, General, Oversight and Investigations.	Ground transportation and meals in connection with tours of nuclear waste facilities in Sweden.	Ministry of Environment and Energy and Sweden's Nuclear Fuel and Waste Management Company.	Fact-finding tour.
Pamela W. Robinson, Consultant, General, Oversight and Investigations.	Ground transportation, meals, and services of English-speaking guides in connection with tours of nuclear waste facilities in France.	French Atomic Energy Commission	Fact-finding tour.
Arthur J. Simonetti, Rep. Dick Schulze	Transportation, meals and lodging in Korea.	Government of the Republic of Korea	(MECA).
John E. Shelk, Energy and Commerce Committee.	Transportation, lodging and meals in Venezuela. Est. value—$500.	Petroleos de Venezuela, state-owned oil company.	(MECA).
Michael S. Scrivner, Rep. Norman Lent	Food, lodging and transportation in Venezuela.	Petroleos de Venezuela	MECA).
Joanna R. Shelton, Ways and Means Committee.	Transportation, lodging and meals in Korea.	Government of the Republic of Korea	(MECA).

AGENCY: U.S. HOUSE OF REPRESENTATIVES—Continued

Report of Travel or Expenses of Travel

Amended 1988 report to reflect disclosure statements received in 1989

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
Daniel B. Waggoner, Agriculture Committee.	Airfare, food and lodging in China	Chinese People's Institute of Foreign Affairs.	MECA).

AGENCY: AFRICAN DEVELOPMENT FOUNDATION

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Jay Kenneth Katzen, Vice Chairman of the ADF Board of Directors.	Camel Saddle, March 1989 $800, on loan to African American Institute for display of African handicrafts.	Prime Minister of Niger	Failure to accept would cause embarrassment to donor and U.S. Government.

AGENCY: AGENCY FOR INTERNATIONAL DEVELOPMENT

[Report of tangible gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert Hellyer, Project Development Officer.	Beige Moroccan Fez Rug. Recd—September 30, 1989. Est. value—$500. Location: In AID pending decision.	Government of Morocco	Employee departed country for AID/W rotation. Upon departure employee was given rug by Director of the National Gendarmerie as an expression of appreciation by the Moroccan Government for employee's work on locust control efforts in Morocco.

AGENCY: DEPARTMENT OF AGRICULTURE

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S Government, estimated vaule, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Clayton Yeutter, Secretary of Agriculture.	Gold plated Samsung man's wristwatch, Korea B.B. #0660M water resistant stainless steel. Recd—May 22, 1989. Est. value—$195. Being stored in Secretary's office.	Dr. Soung Soo Han, Minister of Trade and Industry, Republic of Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Clayton Yeutter, Secretary of Agriculture.	Gilt World time clock, kienzle quartz, face of clock shows the world in gold leaf with Roman numerals, back of clock has signature "Zuguignet". Recd—November 13, 1989. Est. value—$500. Being stored in Secretary's office.	Minister-President, des Landes, Baden-Wurttemburg, Germany.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Clayton Yeutter, Secretary of Agriculture.	Sterling silver display plate, octagon shape with center enameled in tree and bird design produced by Los Castillo Patteros De Taxaco, Talleres en Taxaco Mexico. Recd—November 13, 1989. Est. value—$200. Being stored in Secretary's office.	Jorge de la Vega, Dominquez Secretary of Agriculture and Hydraulic Resources, Mexico.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE AIR FORCE

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Lieutenant General and Mrs. Jimmie V. Adams, Deputy Chief of Staff, Plans and Operations.	Four-piece suite of Pakistani jewelry, yellow gold set with dark blue gemstones and diamonds. Recd—May 25, 1989. Est. value—$1500. Delivered to GSA for disposition, November 16, 1989.	Air Chief Marshal, Hakim Hakimullah, Chief of Air Staff, Pakistan Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Captain Shawn W. Evans, U.S. Aide to the Commander, ROKAF Combat Air Command, Korean Air Force.	$200 in U.S. currency. Recd—December 16, 1988 (report not filed until 1989). Deposited with U.S. Treasury, February 17, 1989.	Lieutenant General Han, Chu-Sok, Commander, ROKAF Combat Air Command.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James F. McGovern, Acting Secretary of the Air Force.	Omani dagger, decorated with applied panels of white and gold colored metal filigree and enamel badge of United Emirates Air Force, in a blue velvet presentation box. Recd—January 17, 1989. Est. value—$250. On official display in the lobby of Headquarters, Air Force Military Personnel Center, Randolph Air Force Base, Texas.	Brigadier General, Sheikh Mohamad bin Zayed Al Nahyan, Commander, United Emirates Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Larry D. Welch, Chief of Staff	Contemporary Pakistani rug with Pakistani Air Force Crest. Recd—November 8, 1988. (Report not filed until 1989.) Est. value—$500. Officially displayed in the Chief of Staff's Official Quarters.	Air Chief Marshal, Hakim Hakimullah, Chief of Air Staff, Pakistan Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General and Mrs. Larry D. Welch, Chief of Staff.	Four-piece suite of contemporary Pakistani high karat yellow gold, ruby and seed pearl jewelry. Recd—November 8, 1988. (Report not filed until 1989.) Est. value—$5775. Delivered to GSA for disposition, November 16, 1989.	Air Chief Marshal, Hakim Hakimullah, Chief of Air Staff, Pakistan Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Larry D. Welch, Chief of Staff	Contemporary Pakistani rug. Recd—November 9, 1988. (Report not filed until 1989.) Est. value—$350. Officially displayed in the Chief of Staff's Official Quarters.	Ghulam Ishaq Khan, Acting President of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General and Mrs. Larry D. Welch, Chief of Staff.	Four-piece suite of Pakistani jewelry, yellow gold with dark blue gemstones and diamonds. Recd—May 25, 1989. Est. value—$1750. On official display in the lobby of Headquarters, Air Force Military Personnel Center, Randolph Air Force Base, Texas.	Air Chief Marshal, Hakim Hakimullah, Chief of Air Staff, Pakistan Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Larry D. Welch, Chief of Staff	Man's Raymond Weil wristwatch, model #9186. Recd—July 13, 1989. Est. value—$550. Being held in the office of the Chief of Staff pending transfer to GSA for disposition.	Major General Behery, Commander, Royal Saudi Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General and Mrs. Larry D. Welch, Chief of Staff.	Lady's Raymond Weil wristwatch, model #8022-7702. Recd—July 13, 1989. Est. value—$575. Being held in the office of the Chief of Staff pending transfer to GSA for disposition.	Major General Behery, Commander, Royal Saudi Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES ARMY

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John O. Marsh, Jr., Secretary of the Army, Washington, DC.	Boxed green vase 10"×6". Recd—Feb 88. Est. value—$75*.	Chung Jin Tae, DCINC, CFA	Non-acceptance would have caused embarrassment to donor.
John O. Marsh, Jr., Secretary of the Army, Washington, DC.	Korean gold crown in case. Recd—Feb 88. Est. value—$150*.	Chung Jin Tae, DCINC, CFA	Non-acceptance would have caused embarrassment to donor.
John O. Marsh, Jr., Secretary of the Army, Washington, DC.	Korean gold crown in red felt presentation. Recd—Feb 88. Est. value—$175*.	General Park Hee Do, COFS, ROK	Non-acceptance would have caused embarrassment to donor.
John O. Marsh, Jr., Secretary of the Army, Washington, DC.	Olympic ceramic spoons. Recd—Feb 88. Est. value—$60*.	General Park Hee Do, COFS, ROK	Non-acceptance would have caused embarrassment to donor.

AGENCY: UNITED STATES ARMY—Continued

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
LTG. Henry Doctor, Jr., The Inspector General, OSA, Washington, DC.	Wooden box (10"×7.5") containing 25 Davidoff Dom Perlognon handmade cigars from Havana, Cuba; Blue cloth covered and lined presentation case (9¾"×12¼") containing a rectangular wooden plaque on which are affixed a circular metal emblem, a metal plate inscribed "Saudi Armed Forces Air Defense Forces" and a metal plate inscribed "Presented to: The Inspector General of the Army (IG) From: S. Brig. Gen. Mohd H. Romaih (IG) R.S.A.D.F. 1988"; Green felt-covered and lined presentation case (18"×10½") containing a short-bladed (5¼") daggar with brass scabbard, and a decorative cloth belt. Inside the top of the case is a card which reads "Presented to Inspector General of the Army (IG) from S. Brigadier General Mohammed H. Al-Romaih Director of Inspection and Evaluation Department Royal Saudi Air Defense Forces Command (RSADFC)" Recd—March 17, 1988 Est. value—$230. Retained by U.S. Total Army Personnel Command pending transfer to GSA.	S. Brigadier General Mohammed H. Al-Romaih, Royal Saudi Air Defense Forces.	Non-acceptance would have caused embarrassment to donor.
Col. Roger M. John, Chief of Staff, 1st Special Operations Command, Fort Bragg, NC.	Kuwaiti gold commemorative coin. Recd—September 20, 1988. Est. value—$250. Approved for official display.	BG Yousef al-Mishari, Head of a Kuwaiti Army delegation.	Non-acceptance would have caused embarrassment to donor.
BG Julius F. Johnson, Director, Joint Staff Armed Forces Inaugural Committee, Washington, DC.	Kuwaiti gold commemorative coin. Recd—July 21, 1988. Est. value—$250. Retained by U.S. Total Army Personnel Command pending transfer to GSA.	Saad Al Abduliah Al Salim Al Sabah, Crown Prince of Kuwait.	Non-acceptance would have caused embarrassment to donor.
LTG. Claude M. Kicklighter, Director of the Army Staff, Washington, DC.	Pistol, .58 calibre, wood finish, serial number 00636, blue Santa Barbara case. Recd—September 9, 1988. Est. value—$400. Approved for official display.	LTG. Iniquez, Chief of Staff, Spanish Army.	Non-acceptance would have caused embarrassment to donor.
LTG. Claude M. Kicklighter, Director of the Army Staff, Washington, DC.	Pakistan Rug (3'×5'), mauve patterned with fringe, rolled in a green cloth case. Recd—October 14, 1988. Est. value—$300. Approved for official display.	Military Attache of Pakistan	Non-acceptance would have caused embarrassment to donor.
MAJ. Samuel J. Zwahlen, Country Officer for United Arab Emirate, MacDill Air Force Base, Florida.	Swiss Asterial automatic 25 jewel data watch, serial number 45005 with crest of United Arab Emirates' Armed Forces. Recd—August 10, 1988. Est. value—$250. Approved for official use.	Sheik Sultan Bin Saqr Al Qassimi (Deputy Ruler), United Arab Emirate.	Non-acceptance would have caused embarrassment to donor.

* Because these gifts were received from one donor in recognition of a single event (Mr. Marsh's trip to Korea), they are not divisible but are considered one gift. Approved for official display.

AGENCY: DEPARTMENT OF THE ARMY

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James Ambrose, Former Under Secretary of the Army, Washington, D.C.	Pistol, .45 calibre, silver finish, serial #192623, wood finish case. Recd—March 18, 1987. Est. value—$450.00. Reported to GSA July 10, 1989; pending sale to Mr. Ambrose by GSA.	Senior Government official, Argentina Army.	Non-acceptance would have caused embarrassment to donor.
2LT. Kathryn Burba, Executive Officer, 3d Support Battalion, 3d Infantry Division, Korea.	$300.00 in cash. Recd—November 30, 1988. Est. value—$300.00. Deposited with U.S. Treasury March 28, 1989.	General Jin Kae Chun, Republic of Korea Army.	Non-acceptance would have caused embarrassment to donor.

AGENCY: DEPARTMENT OF THE ARMY—Continued

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
BG John S. Cowings, Commander, 3d Corps Support, Command, Germany.	Four books (no title). Recd—October 30, 1989. Est. value—$335.00. Approved for official use.	Lord Mayor Exner, Mayor of Wiesbaden.	Non-acceptance would have caused embarrassment to donor.
Col. Philip R. Harris, Commander, U.S. Army Kwajalein Atoll.	His and her gold Seiko wrist watches. Recd—August 25, 1989. Est. value—$300.00. Reported to GSA January 13, 1990; pending transfer to GSA.	Marshall-Gilbert, Bereaved Families Association.	Non-acceptance would have caused embarrassment to the donor.
Col. Philip R. Harris, Commander, U.S. Army Kwajalein Atoll.	Japanese ornamental vase and cuff link/tie-bar set. Recd—November 17, 1989. Est. value—$200.00. Reported to GSA January 13, 1990; pending transfer to GSA.	Japanese Air Force Pilot	Non-acceptance would have caused embarrassment to donor.
Col. Curtis J. Herrick, Jr., Program Manager, Advanced Helicopter, U.S. Army Aviation Systems Command, St. Louis, Missouri.	Rolex oyster watch, serial #8998143, stainless steel band. Recd—March 11, 1989. Est. value—$2,000.00. Reported to GSA January 13, 1990; pending transfer to GSA.	BG (Sheik) Mohammed Bin Sayed Al Nahayyan, Commander, United Arab Emirates, Air Force and Air Defense.	Non-acceptance would have caused embarrassment to donor.
Walter R. Hollis, Deputy Under Secretary of the Army, Operations Research, Washington, D.C.	Korean vase/urn, 18" high x 14" across, decorated with two large birds and a pine tree. Recd—September 20, 1989. Est. value—$150.00*. Approved for official use.	Hwang, Kawn Young, President, Korea Institute of Defense Analyses.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Walter R. Hollis, Deputy Under Secretary of the Army, Operations Research, Washington, D.C.	Framed picture of a Korean lady 33" square. Recd—September 20, 1989. Est. value—$100.00*. Approved for official use.	Hwang, Kawn Young, President Korea Institute of Defense Analyses.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG. Claude M. Kicklighter, Director of the Army Staff, Washington, D.C.	Pakistan rug (2½' x 4½'), mauve pattern with fringe. Recd—January 23, 1989. Est. value—$298.00. Transferred to GSA October 16, 1989.	LTG Shamin, Pakistan	Non-acceptance would have caused embarrassment to donor.
LTG. Claude M. Kicklighter, Director of the Army Staff, Washington, D.C.	Brass soldier on marble stand with inscription to LTG Kicklighter. Recd—April 22, 1989. Est. value—$200.00. Transferred to GSA October 16, 1989.	An official from the Republic of Argentina.	Non-acceptance would have caused embarrassment to donor.
LTG. Claude M. Kicklighter, Director of the Army Staff, Washington, D.C.	Deer antlers, mounted on wood base (3' x 3'). Recd—April 19, 1989. Est. value—$200.00. Transferred to GSA October 16, 1989.	Gen. LaVollel, Commander, 4th Mountain Cavalry Regiment, Argentina Army.	Non-acceptance would have caused embarrassment to donor.
Gen. Glenn K. Otis, Former Commander-in-Chief, U.S. Army, Europe.	Carved ivory African sculpture (9⅞" height. overall 15¼" height x 7" square). Recd—January 12, 1988. Est. value—$500.00. Transferred to GSA October 16, 1989.	LTG. D. Y. Bali, Minister of Defense, Nigeria.	Gift delivered following departure of donee from Europe. Non-acceptance would have caused embarrassment to donor.
LTG. Ellis D. Parker, Director of the Army Staff, Washington D.C.	Taurus PT-92, 9mm parabellum, serial #B613010. Recd—September 18, 1989. Est. value—$480.00. Reported to GSA October 3, 1989; pending sale to the recipient.	Brazilian government official at the Brazilian Embassy in Washington, D.C.	Non-acceptance would have caused embarrassment to donor and the Brazilian Government.
BG Virgil A. Richard, Commander, U.S. Army Finance and Accounting Center, Indianapolis, Indiana.	Commemorative plate, British Royal Army Pay Corps seal. Recd—July 20, 1989. Est. value—$180.00. Approved for official use.	MG P.S. Bray, Paymaster-in-Chief British Royal Army Pay Corps.	Received in exchange of gifts between exchange programs of the U.S. Army Finance and Accounting Center and the British Royal Army Pay Corps.
Mrs. Michael P.W. Stone, Wife of the Secretary of the Army, Washington, D.C.	14kt. gold cartouche. Recd—November 16, 1989. Est. value—$250.00. Pending transfer to GSA.	Youssef Abu Taleb, Minister of Defense, Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Gen. N. Norman Schwarzkopf Commander-in-Chief, U.S. Central Command MacDill Air Force Base, Florida.	"National" VHS movie system VW-SHM7. Recd—January 30, 1989. Est. value—$1,200.00. Approved for official use.	MG Abdul Rahman Al-Sane, Chief of Staff, Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Gen. N. Norman Schwarzkopf, Commander-in-Chief, U.S. Central Command, MacDill Air Force Base, Florida.	Rolex Oyster Perpetual day-date, 18kt gold wrist watch. Recd—March 1989. Est. value—$8,400.00. Approved for official use.	The Amir of Bahrain, Isa Bin Salmon Al Khalifa.	Non-acceptance would have caused embarrassment to donor.
Gen. N. Norman Schwarzkopf Commander-in-Chief, U.S. Central Command, MacDill Air Force Base, Florida.	RPK (Soviet) machine gun with case and 100 rounds of ammunition. Recd—June 1989. Est. value—$1,200.00. Approved for official use.	General Mirza Aslam Beg of Pakistan	Non-acceptance would have caused embarrassment to donor.
Gen. Maxwell R. Thuman, Commander-in-Chief, U.S. Southern Command, Panama.	Rifle, 8mm (German) model 98-SVWMB, serial #SVW 22041. Recd—November 1988. Est. value—$300.00. Reported to GSA January 13, 1990; pending transfer to GSA.	LTG. Odendahl, Chief, German General Army Office.	Non-acceptance would have caused embarrassment to donor.

AGENCY: DEPARTMENT OF THE ARMY—Continued

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
MG James W. Wurman, Commander, U.S. Army Training, Center, Fort Dix, New Jersey.	Sam Jung Do Saber Award (Commanders Sword). Recd—May 28, 1986. Est. value—$300.00. Approved for official use.	President Chun Doo Hwan Republic of Korea.	Non-acceptance would have caused embarrassment to donor.
U.S. Tank Automotive Command (donee unknown) Warren, Michigan.	Gold cuff links and tie pins. Recd—Unknown. Est. value—$200.00. Reported to GSA January 13, 1990; pending transfer to GSA.	Unknown	

*Because these two gifts were received from one donor in recognition of a single event, they are not divisible but are considered as one gift. Approved for official display.

AGENCY: CENTRAL INTELLIGENCE AGENCY

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency Employee	Italian 750 (18 karat) yellow gold key chain, with heart shaped charm. Retailed by Bedetti. Recd—November 20, 1988. Est. value—$450. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Agency Employee	French gilt metal and black enamel carriage clock. Retailed by Cartier. In the Art Deco style with hinged door, number 00574. Recd—December 1988. Est. value—$200. To be retained for official display.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Agency Employee	Cartier polished stainless steel gentleman's wristwatch. With Swiss movement, case number 187902/08160. Recd—December 1988. Est. value—$300. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Agency Employee	Mottled green-white jade ring. The unmarked yellow gold mount set with an oblong mottled green-white jade. Recd—January 1989. Est. value—$250. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Agency Employee	Ruby and diamond floriform pendant. The 18 karat yellow gold mount, set with five marquise faceted rubies, and six round faceted diamonds, weighing approximately .60 carats. Wt. of rubies approximately 1.50 carats. Together with 585 (14 karat) yellow gold chain. Recd—January 1989. Est. value—$750. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Agency Employee	14 karat and cultured pearl opera length necklace with 114 cultured pearls measuring approximately 7.8mm and 14 karat yellow gold clasp set with one cultured pearl. Retailed Okubo Brothers, Toyoko. Recd—January 1989. Est. value—$1,800. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Agency Employee	Sterling cigarette box. Rectangular with hinged lid with silver coin, with burlwood and silver plaque with verse, L: 8. Recd—July 1989. Est. value—$250. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Richard J. Kerr, Deputy Director, CIA	Dagger in an engraved and etched gilt silver sheath and complementary pommel, encased. L: 10¾. Recd—June 9, 1989. Est. value—$250. To be retained for official display.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Richard J. Kerr, Deputy Director, CIA	Unmarked launcher with gilt plaque. In walnut case. L: of weapon 37½. Recd—January 7, 1989. Est. value—$1,000. To be retained for official display.	Public Law 95-105	Non-acceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Silver gilt "palm tree" sculpture on oval malachite base, and raised on gilt silver ball feet. H: overall 9½. Recd—March 22, 1989. Est. value—$250. To be retained for official display.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Middle Eastern aqua glass teardrop vial, probably first-third century A.D. With bulbous inverted base and elongated neck with flared rim. H: 2½. In lucite dust-proof case. Recd—May 24, 1989. Est. value—$200. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Malachite figure of an elephant. H: 9¼. Recd—June 22, 1989. Est. value—$250. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Animal hide blanket with lozenge-joined hide panels. Overall approximately 98×64. Recd—June 29, 1989. Est. value—$200. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	————Baron. *Paloma Paz.* Mottled green-gold bronze mechanical sculpture on gilt bronze base, inscribed "Baron". Edition 5/25 and inscribed S. C, also, entitled "Paloma Paz". H: 12¼. Recd—October 2, 1989. Est. value—$250. To be reported to GSA for disposition.	Public Law 95-105A(F)(4)	Non-acceptance would have caused embarrassment to donor.

AGENCY: DEPARTMENT OF COMMERCE

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert A. Mosbacher, Secretary of Commerce.	Venolian vase, thin vase with royal blue, green, deep red highlights and gold outlines 8¾ inches by 1¼ inches round. Recd June 9, 1989. Est. value $500.00. Held for official use.	Antonio Cassebboti, Mayor of Venice, Italy.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	Porcelain vase, silver blue with intricate design 5 inches round by 4½ inches deep on the upper portion. Recd September 10, 1989. Est. value $200.00. Held for official use.	Choi Ho Joong, Minister of Foreign Affairs, South Korea.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	Celadon bowl, ice-bluish hue, with raised brooch and leaf design on top 7 inches round by 6 inches high on wooden base. Recd September 11, 1989. Est. value $500.00. Held for official use.	Roh Tae Woo, President, South Korea	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	"Obsedian Monkey" vase, entire piece made of polished volcanic glass 6½ inches round by 6 inches high with 4 inch round opening. Recd September 11, 1989. Est. value $800.00. Held for official use.	Carlos Hank Gonzales, Minister of Tourism, Mexico.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	"Delft" bowl, blue and white porcelain 5¾ inches by 6 inches mounted on a wooden base. Recd September 11, 1989. Est. value $500.00. Held for official use.	Minister Han, Minister of Trade and Industry, South Korea.	Non-acceptance would have caused embarrassment to donor and United States Government.

AGENCY: DEPARTMENT OF COMMERCE—Continued

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert A. Mosbacher, Secretary of Commerce.	Framed Korean print, round print in square silk matted edge 18 inches by 18 inches. Recd September 12, 1989. Est. value $400.00. Held for official use.	Minister Matorinaga, Minister of Trade and Industry, Japan.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	Mexican coin collection, 10 white metal coins 2 inches in diameter each with a different scene of traditional Mexican folklore. Recd October 24, 1989. Est. value $200.00. Held for official use.	Carlos Hank Gonzales, Minister of Tourism, Mexico.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	Celadon vase, gray and green porcelain vase 10½ inches by 6 inches. Recd November 11, 1989. Est. value $600.00. Held for official use.	Choi Ho Joong, Minister of Foreign Affairs, South Korea.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	Celadon vase, silver blue with a lacey pattern 5 inches round by 5½ inches high. Recd November 11, 1989. Est. value $250.00. Held for official use.	Choi Ho Joong, Minister of Foreign Affairs, South Korea.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	Celadon vase, gray and green porcelain vase 17 inches by 8½ inches. Recd November 11, 1989. Est. value $800.00. Held for official use.	Choi Ho Joong, Minister of Foreign Affairs, South Korea.	Non-acceptance would have caused embarrassment to donor and United States Government.
Robert A. Mosbacher, Secretary of Commerce.	Lead crystal bowl, with gray and silver design. Recd November 29, 1989. Est. value $500.00. Held for official use.	Marcin Sivenciki, Minister of Commerce, Poland.	Non-acceptance would have caused embarrassment to donor and United States Government.

AGENCY: DEPARTMENT OF DEFENSE

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Richard L. Armitage, Assistant Secretary for International Security Affairs.	Large round, silverplated tray, 20" diameter, engraved with inscription, in large red velour box. Recd—February 16, 1989. Est. value—$250. Stored in vault pending transfer to GSA.	General Hau Pei-Tsun, Chief of General Staff, Ministry of National Defense, Republic of China (Taiwan).	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary for International Security Affairs.	Set of wooden stack tables with brass corners. Recd—February 28, 1989. Est. value—$250. Delivered to GSA November 21, 1989.	General Beg, Chief of the Army Staff, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary for International Security Affairs.	Pakistani rug, red, blue and ivory, approx. 4' x 6'. Recd—March 1, 1989. Est. value—$1800. Approved for official display in office of the Secretary of Defense.	Minister of Defense Pakistan	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary for International Security Affairs.	Pakistani rug, brown, tan and ivory, approx. 3' x 4'. Recd—March 1, 1989. Est. value—$700. Approved for official display in office of donee.	Minister of Defense of Pakistan	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary for International Security Affairs.	(a) Set of 18K gold Cartouch cufflinks; (b) Men's Tissot watch. Recd—May 20, 1989. Est. value—(a) $400; (b) $250. Delivered to GSA November 21, 1989.	Minister of Defense of Egypt	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary for International Security Affairs.	(a) Leather jewelry box, burgundy; (b) Leather handbag, burgundy. Recd—May 27, 1989. Est. value—(a) $60; (b)$165. Delivered to GSA November 21, 1989.	Air Chief Marshal Hakimullah, Deputy Chief of the Pakistani Air Force, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary for International Security Affairs.	Pakistani rug, brown, blue and ivory with animals in design, approx. 4' x 6'. Recd—May 27, 1989. Est. value—$1800. Approved official display in office of donee.	Air Chief Marshal Hakimullah, Deputy Chief of the Pakistani Air Force, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary for International Security Affairs.	Pakistani rug, red, blue and ivory, approx. 3' x 5'. Recd—June 7, 1989, Est. value—$600. Approved for official display in office of donee.	Her Excellency Mohtrama Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U. S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Donald J. Atwood, Deputy Secretary of Defense.	Pakistani rug, red, blue and ivory, approx. 3'2" x 5'3". Recd—June 7, 1989. Est. Value—$600. Purchased from GSA by donee.	Her Excellency Mohtrama Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Donald J. Atwood, Deputy Secretary of Defense.	Small sterling silver plate, engraved with Egyptian maiden in the center. Recd—August 7, 1989. Est. value—$200. Approved for official display in office of donee.	General Youssef Sabri Abou Taleb, Commander-in-Chief of the Armed Forces, Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA, Director, Defense Security Assistance Agency.	(a) Letter opener with cloisonne handle with matching magnifying glass; (b) framed painting with stitching, approx. 17÷÷ x 24½÷÷. Recd—May 10, 1989. Est. value—(a) $95; (b) $150. (a) Delivered to GSA November 21, 1989; (b) approved for official display in office of donee.	Vice Admiral Chuang Ming-Yao, Deputy Commander-in-Chief, Republic of China Navy.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA, Director, Defense Security Assistance Agency.	(a) Light green jade beads necklace, approx. 30" long; (b) book commemorating 1988 Olympic Games in Seoul, Korea. Recd—May 4, 1989. Est. value—(a) $400; (b) $95. Reported to GSA pending disposition.	General Suh, Chief of Staff, Korean Air Force, Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA, Director, Defense Security Assistance Agency.	(a) Rug with Pakistani Air Force emblem in center, approx. 31" x 48"; (b) large black plaque with silver decoration, 10½" x 13". Recd—May 26, 1989. Est. value—(a) $750; (b) $75. Reported to GSA pending disposition.	Air Chief Marshal Hakimullah, Deputy Chief of the Pakistani Air Force, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Charles W. Brown, spouse of Director, Defense Security Assistance Agency.	(a) Leather Jewelry box, burgundy; (b) leather handbag, burgundy. Recd—May 26, 1989. Est. value—(a) $60; (b) $165. Delivered to GSA November 21, 1989.	Mrs. Hakimullah, wife of Air Chief Marshal Hakimullah, Deputy Chief of the Pakistani Air Force, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA, Director, Defense Security Assistance Agency.	Pakistani rug, red, blue and ivory, approx. 3' x 5'. Recd—June 7, 1989. Est value—$600. Approved for official display in office of donee.	Her Excellency Mohtrama Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA, Director, Defense Security Assistance Agency.	(a) Decorative silverplated plate for wall hanging, engraved design, approx. 11" diameter; (b) decorative silverplated table top, with metal legs to be attached, engraved design, approx. 15½" diameter. Recd—July 26, 1989. Est. value—(a) $50; (b) $150. Delivered to GSA November 21, 1989.	Vice Admiral El Salek SHARIF, Commander-in-Chief, Egyptian Armed Forces.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA, Director, Defense Security Assistance Agency.	(a) Metal paper tray and pen set; (b) Men's Longines gold watch; (c) Ladies' Certina goldtone watch. Recd—November 29, 1989. Est. value—(a) $40; (b) $150 (c) $125. Reported to GSA pending transfer.	General Fathi Abu Taleb, Chief of General Staff, Jordan Armed Forces, Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA, Director, Defense Security Assistance Agency.	Men's Rado "Voyager" watch, stainless steel. Recd—November 29, 1989. Est. value—$250. Reported to GSA pending transfer.	Maj. Gen. Fawzi Ebeidat, G.H.Q. Jordan Armed Forces, Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, former Secretary of Defense.	Bronze sculpture, "Pray for Peace," by Gila J. Stein, 1988 (approx. 4' x 2'), mounted on black wooden base (approx. 2' x 2'), with presentation plate: "Dedicated to The U.S. Department of Defense by the Ministry of Defense of the State of Israel with appreciation for the profound friendship and support, Tel Aviv, November 3, 1988." Recd in U.S.—February 6, 1989. Est. value—Not determined approved for official display in corridor at entrance to Meditation Room, the Pentagon.	His Excellency Yitzhak Rabin, Minister of Defense of Israel.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dick Cheney, Secretary of Defense	Pakistani rug, burgundy, blue and ivory, approx. 5' x 7'. Recd—June 9, 1989. Est. value—$2600. Approved for official display in office of donee.	Her Excellency Mohtrama Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Secretary of Defense and Mrs. Dick Cheney.	(a) Small rug, pink, blue, brown and ivory, with Persian design, approx. 3' x 2'; (b) small silverplated serving tray, approx. 9" x 7". Recd—June 9, 1989. Est. value—(a) $420; (b) $45. Approved for official display.	Minister of Defense of India	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dick Cheney, Secretary of Defense	Framed, hand-coloured print of "Windsor Castle," by Thomas Allom (1804–1872), gold leaf frame with French matte, 26" x 16", from Malcolm Innes Gallery, London. Recd—July 12, 1989. Est. value—$1200. Approved for official display in office of donee.	Rt. Hon. George Younger, Secretary of State for Defence of the United Kingdom.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lynne V. Cheney, spouse of Secretary of Defense.	(a) Amethyst earrings and pendant set, 18K gold with 3 small diamonds; (b) pair of amethyst stones in silver settings. Recd—July 18, 1989. Est. value—(1) $475; (2) $100. Delivered to GSA November 21, 1989.	Minister of Defense, Lee of Korea and Mrs. Lee.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Secretary of Defense and Mrs. Dick Cheney.	Set of personalized His and Her Destiny Pro Kennex tennis racquets, with carrying cases. Recd—July 25, 1989. Est. value—$250. Stored in vault pending disposition.	General Hau Pei-Tsun, Chief of General Staff, Ministry of National Defense, Republic of China (Taiwan), and Mrs. Hau Pei-Tsun.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dick Cheney, Secretary of Defense	(a) Small sterling silver plate, engraved with Egyptian maiden in the center; (b) gold-tone plaque mounted on red velour. Recd—August 3, 1989. Est. value—(a) $200; (b) $40. (a) Reported to GSA pending transfer; (b) approved for official display.	General Youssef Sabri Abou Taleb, Commander-in-Chief of the Armed Forces of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lynne V. Cheney, spouse of Secretary of Defense.	22K gold brooch with lapis stone in shape of a ladybug in the center. Recd—August 3, 1989. Est. value—$350. Reported to GSA pending transfer.	General Youssef Sabri Abou Taleb, Commander-in-Chief of the Armed Forces of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dick Cheney, Secretary of Defense	Pakistani rug, shades of brown and ivory, approx. 3' x 5'. Recd—August 3, 1989. Est. value—$1125. Approved for official display in suite of the Executive Secretariat.	Syed Ijlab Haider Zaidi, Secretary, Defense and Aviation Divisions, Ministry of Defense, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dick Cheney, Secretary of Defense	(a) Heavy black metal statue of man with horse on stand; (b) small gold-tone medallion. Recd—October 8, 1989. Est. value—(a) $130; (b) $50. Approved for official display.	Dmitriy Yazov, Minister of Defense of the Soviet Union.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lynne V. Cheney, spouse of Secretary of Defense.	Yellow and brown necklace and bracelet set (large beads). Recd—October 8, 1989. Est. value—$20. Reported to GSA pending transfer.	Mrs. Dmitriy Yazov, spouse of Minister of Defense of the Soviet Union.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dick Cheney, Secretary of Defense	Small silver statue of an Italian soldier. Recd—October 1989. Est. value—$250. Delivered to GSA November 21, 1989.	His Excellency Fermo Mino Martinazzoli, Minister of Defense, Rome, Italy.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lynne V. Cheney spouse of Secretary of Defense.	(a) Cucci silk scarf, brown and white floral and fruit pattern; (b) gold and lapis Italian Crest bow pendant pin. Recd—October 1989. Est. value—(a) $165; (b) $250. Reported to GSA pending transfer.	Mrs. Fermo Mino Martinazzoli, spouse of the Minister of Defense, Rome, Italy.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Secretary of Defense and Mrs. Dick Cheney.	Fine China demitasse set by KPM, includes teapot, sugar bowl, creamer, two cups and saucers. Recd—October 1989. Est. value—$350. Stored in vault pending disposition.	Hon. and Mrs. Walter Momper, Governor of West Berlin, Germany.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LTG Howard D. Graves, USA Assistant to the Chairman, Joint Chiefs of Staff.	Black lacquer "Becha" clock, approx. 9½" x 6¼". Recd—December 2, 1989. Est. value—$250. Approved for official display in office of donee.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Alma J. Powell, spouse of General Colin L. Powell, Chairman, Joint Chiefs of Staff.	Silver pin with 9 pearls. Recd—November 16, 1989. Est. value—$300. Reported to GSA pending transfer.	Mrs. Masao Ishii, spouse of the Chairman, Joint Staff Council, Japan.	Non-acceptance would have caused embrassement to doner and U.S. Government.
Henry S. Rowen, Assistant Secretary for International Security Affairs.	Pakistani rug, blue and burgundy, approx. 4'x6'. Recd—July 27, 1989. Est. value—$1700. Approved for official display in office of donee.	Syed Ijlab Haider Zaidi, Secretary, Defense and Aviation Divisions, Ministry of Defense, Pakistan.	Non-acceptance would have caused embrassement to doner and U.S. Government.
Henry S. Rowen, Assistant Secretary for International Security Affairs.	Rug, brown and white, approx. 5'8"x8'2". Recd—September 15, 1989. Est. value—$1900. Approved for official display in office of donee.	Minister of National Defense Kallel of Tunisia.	Non-acceptance would have caused embrassement to doner and U.S. Government.
Henry S. Rowen, Assistant Secretary for International Security Affairs.	(a) Set of gold-tone letter opener and gold-tone ballpoint pen; (b) Men's Certina gold-tone watch, with Jordanian Armed Forces Emblem; (c) Ladies' Certina gold-tone watch, with Jordanian Armed Forces Emblem. Recd—November 29, 1989. Est. value—(a) $35; (b) $150; (c) $125. Reported to GSA pending disposition.	General Fathi Abu Taleb, Chief of General Staff, Jordan Armed Forces.	Non-acceptance would have caused embrassement to doner and U.S. Government.
Glenn A. Rudd, Deputy Director, Defense Security Assistance Agency.	Set of four stack tables, wood decorated with brass (largest—18"x12"x17½" high). Recd—July 28, 1989. Est. value—$220. Approved for official display in office of donee.	Syed Ijlab Haider Zaidi, Secretary, Defense and Aviation Divisions, Ministry of Defense, Pakistan.	Non-acceptance would have caused embrassement to doner and U.S. Government.
Frederick C. Smith, Director, NESA Region, Office of the Under Secretary for Policy.	Men's Baume and Mercier watch, gold and stainless steel band. Recd—June 1989. Est. value—$400. Delivered to GSA November 21, 1989.	Major General Khalifa bin Ahmed Al-Khalifa, Minister of Defense of Bahrain.	Non-acceptance would have caused embrassement to doner and U.S. Government.
Mrs. Paul Wolfowitz, spouse of the Under Secretary of Defense for Policy.	Small rug, 3'x2'. Recd—June 28, 1989. Est. value—$420. Approved for official display in office of donee.	Shri Krishna Chandra Pant, Minister of Defense of India, and Mrs. Ila Pant.	Non-acceptance would have caused embrassement to doner and U.S. Government.

AGENCY DEPARTMENT OF EDUCATION

[Report of Travel or Expenses of Travel—Calendar Year: 1989]

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Diane Weinstein, Deputy General Counsel for Departmental Service.	Travel and lodging expenses as a gift actually extended Alan Weinstein (her spouse) in connection with his work as Director of the Center for Democracy associated with Boston University which conducts activities to promote democratic institutions in other countries. Inclusive Dates: August 23-30, 1988. Estimated value: $6,000. Reported to the U.S. Department of Education on December 22, 1989 after employee had left her position in the Department.	The People's Republic of China	Non-acceptance would have caused embarrassment to donor and United States Government.

AGENCY: FEDERAL ELECTION COMMISSION

[Report of Travel or Expenses of Travel]

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Joan D. Aikens, Commissioner	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.

AGENCY: FEDERAL ELECTION COMMISSION—Continued

[Report of Travel or Expenses of Travel]

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Penelope Bonsall, Director, National Clearinghouse on Election Administration.	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
Robert A. Dahl, Executive Assistant	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
Lee Ann Elliott, Commissioner	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
France Hughes Glendening, Executive Assistant.	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
Thomas J. Josefiak, Commissioner	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
Danny L. McDonald, Chairman	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
John Warren McGarry, Commissioner	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
Lawrence M. Noble, General Counsel	Airfare Moscow-Leningrad-Kiev-Moscow Hotel and subsistence in those cities from June 5-13, 1989. Total: $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
John C. Surina, Staff Director	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
Scott E. Thomas, Commissioner	Moscow-Leningrad-Kiev-Moscow June 5-13, 1989; travel, hotels, and subsistence = $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.
Louise D. Wides, Assistant Staff Director Information.	Airfare Moscow-Leningrad-Kiev-Moscow plus hotel and subsistence in those cities from June 5-13, 1989. Estimated value $1,613.40.	USSR	Official visit on invitation of the Central Electoral Commission for the Election of People's Deputies of the USSR.

AGENCY: U.S. GENERAL ACCOUNTING OFFICE

[Report of Travel or Expenses of Travel]

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Mary R. Hamilton, Manager, New York Regional Office, and spouse.	Soviet currency and hotel accommodations. Rcd. October 14, 1989. Est. Value—$787. Funds spent on food and incidental expenses in the Soviet Union.	Official of the USSR Academy of Sciences; Soviet Union.	Non-acceptance would have caused embarrassment to the USSR Academy of Sciences and to the US Government.

AGENCY: U.S. GENERAL ACCOUNTING OFFICE

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Linda L. Weeks, Program Manager, Office of International Audit, Organization Liaison.	Petite china tea set, service for six, Rcd. Nov. 1, 1989. Est. Value—$300.00. Stored in GAO's Office of Security pending transfer to GSA.	Official of the State Audit Office of the Republic of Hungary.	Non-acceptance would have caused embarrassment to the Governments of Hungary and the U.S.

AGENCY: DEPARTMENT OF JUSTICE

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Goverment	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert A. Bryden SAC, Office of Training, Drug Enforcement Administration.	Watch, Cupillard Rieme, quartz, gold-plated with stones circling the face Recd—May 11, 1989 Est. Value—$995 Held in DEA property office awaiting disposition from GSA.	Mohammed Nassir Deputy Chief of Police, Dubai, United Arab Emirates.	Non-acceptance would have caused embarrassment to donor and US Government.
William S. Sessions Director, Federal Bureau of Investigation.	Replica of an Olympic Torch, brass 24" tall Recd—January 9, 1989 Est. Value—$200 Retained for official display in the Director's office.	Seh Jik Park Director, Agency for National Security Planning, Republic of Korea.	Non-acceptance would have caused embarrassment to donor and US Government.
William S. Sessions Director, Federal Bureau of Investigation.	Briefcase, alligator leather Recd—July 6, 1989 Est. Value—$225 Retained for official display in the Director's office.	Aliyu Mohammed Director, Office of the Coordinator of National Security, Nigeria.	Non-acceptance would have caused embarrassment to donor and US Government.
William S. Sessions Director, Federal Bureau of Investigation.	Medallion, gold, depicting a flying dove, 2" in diameter Recd—July 7, 1989 Est. Value—$300 Retained for official display in the Director's office.	Riccardo Malpica Director, Italian Intelligence and Democratic Service, Rome, Italy.	Non-acceptance would have caused embarrassment to donor and US Government.
William S. Sessions Director, Federal Bureau of Investigation.	Water Pitcher, china, in wooden display box 12" x 12" Recd—October 17, 1989 Est. Value—$300 Retained for official display in the Director's office.	Prince Turki Alfaisal Director, Saudi Arabian Intelligence Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and US Government.
Dick Thornburgh Attorney General of the United States.	Teapot, silver, 11" tall, with wooden handle Recd—April 4, 1989 Est. Value—$450 Held in DOJ property office awaiting disposition instructions from GSA.	Antonio Gava Minister of Interior Italy	Non-acceptance would have caused embarrassment to donor and US Government.
Dick Thornburgh Attorney General of the United States.	Dagger, stainless steel, 12" long, with 4" silver-plated hilt and 12" silver-plate and bone sheath Recd—October 16, 1989 Est. Value—$300 Held in DOJ property office awaiting disposition instructions from GSA.	Vadim Bakatin Minister of Interal Affairs, Union of Soviet Socialist Republics.	Non-acceptance would have caused embarrassment to donor and US Government.

AGENCY: DEPARTMENT OF THE NAVY

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Captain T.R. Meyers, USN, Executive Officer NAVPRO, Strafford, CT.	Pearl Necklace and Pen Set Recd May 1989 Est. Value—$200 Being held in Chief of Naval Operations, (OP-09B33) pending transfer to GSA for disposition.	Government of Republic of China	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Peter Murphy, Counsel for the Commandant of the Marine Corps.	Silver Spurs Recd February 28, 1989 Est Value—$200 Displayed in the Office of the Commandant of the Marine Corps.	Admiral & Mrs. Gallegos, Chilean Naval Mission.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Brigadier General M.E. Rich, Staff Judge Advocate to the Commandant of the Marine Corps.	Omega Seamaster Watch Recd March 21, 1989 Est. Value—$595 Being held in Commandant of the Marine Corps HQ pending transfer to GSA for disposition.	Emir Bahrain, Sheik Isa Al Khalifa	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rear Admiral Grant A. Sharp, USN, Director, Plans and Policy Directorate, U.S. Central Command, MacDill AFB, FL.	Mens Rado Voyager Watch Recd November 29, 1989 Est. Value—$500 Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	MG Fauzi Ebeldat, Assistant Chief of Staff for Planning and Organizations, Jordanian Armed Forces, Armed Forces, Jordan.	Non-acceptance would have cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE NAVY—Continued

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Captain Richard S. Watkins, USN, Chief of Staff, Commander Joint Task Force Middle East.	Rolex Mens Oyster Wrist Watch Recd February 22, 1988 Est. Value—$2,500 Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	The Emir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Captain Richard S. Watkins, USN, Chief of Staff, Commander Joint Task Force Middle East.	Three Ladies Gold Bracelets Recd February 22, 1988 Est. Value—$1,000 Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	The Emir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
H. Lawrence Garrett, III and Mrs. Garret, Secretary of the Navy.	Fresh Water Pearls Cuff Links and Tie Clasp Recd August 22, 1989 Est. Value—$200 Being held by the General Counsel of the Secretary of the Navy pending transfer to GSA for disposition.	Japanese Defense Prime Minister Matsumoto.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
H. Lawrence Garrett, III and Mrs Garret, Secretary of the Navy.	Fresh Water Pearls 3-strand Necklace with Bracelet Attached Recd August 22, 1989 Est. Value—$400 Being held by the General Counsel of the Secretary of the Navy pending transfer to GSA for disposition.	Japanese Defense Prime Minister Matsumoto.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James A. Baker, III, Secretary of State	Carved ivory piece, two moose fighting on stand, Recd—December 19, 1989, Est. Value—$250.00, In the Office of Protocol pending delivery to GSA.	Ambassador & Mrs. Dubinin, Union of Soviet Socialist Republics.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Brown leather case with gold design on top, 13"x8" Recd—December 28, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Foreign Minister Escheikh of Tunisia	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Crystal ashtray/vase, Recd—July 31, 1989, Est. value—$300.00, In the Office of Protocol pending delivery to GSA.	General & Mrs. Jaruzelski, Chairman, Polish People's Republic.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Brass clock commemorating the French Bicentennial, Recd—August 3, 1989, Est. value—$400.00, In the Office of Protocol pending delivery to GSA.	President Mitterrand of France	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Soco leather briefcase & Waterman ballpoint pen, Recd—August 3, 1989, Est. value—$200.00, In the Office of Protocol pending delivery to GSA.	Foreign Minister Dumas of France	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Sterling Silver Tray 10"x3" w/facsimile signature, Recd—October 11, 1989, Est. value—$300.00, In the Office of Protocol pending delivery to GSA.	President Cossiga, Council of Ministers, Italy.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Briefcase: Charles Jourdan Actif, black leather, Recd—July 6, 1989, Est. value—$200.00, In the Office of Protocol pending delivery to GSA.	Bolkiah, Sultan: Brunei	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Cufflinks: Lapis/gold with crest, Recd—July 6, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Bolkiah, Sultan: Brunei	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Coin: $100.00 denomination, Recd—July 6, 1989, Est. value—$150.00, In the Office of Protocol pending delivery to GSA.	Bolkiah, Sultan: Brunei	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Garrard Pen 14k nib, Recd—July 8, 1989, Est. value—$200.00, In the Office of Protocol pending delivery to GSA.	Deputy Prime Minister of Defense/Security Sayyid of Oman.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James A. Baker, III, Secretary of State	Decanter, man riding on a horse, Recd—May 15, 1989, Est. value—$200.00, In the Office of Protocol pending delivery to GSA.	Foreign Minister Shevardnadze of Union of Soviet Socialist Republics.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Carpet, 3'x5', beige field with blue tones, Recd—June 6, 1989, Est. value—$200.00, In the Office of Protocol pending delivery to GSA.	Prime Minister Bhutto of Pakistan	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James A. Baker, III, Secretary of State	Hunting prints: set of four Jagdrennen: The Course of Hunting, Recd—June 7, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Chancellor Kohl of the Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker, III, Secretary of State	Malachite checkers set, Recd—June 29, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	President Mobutu of Zaire	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker, III, Secretary of State	Imari porcelain vase: white w/blue, rust, gold flowers, Recd—February 3, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Prime Minister Takeshita of Japan	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker, III, Secretary of State	Sterling Silver framed photograph 9"x11", in black case, Recd—February 3, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Prime Minister Takeshita of Japan	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker, III, Secretary of State	Sterling Silver plaque w/silver compass, Recd—February 15, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Foreign Minister Pinheiro of Portugal	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker, III, Secretary of State	Tapestry: framed silk embroidery 3'x4', Recd—April 11, 1989, Est. Value—$400.00, In the Office of Protocol pending delivery to GSA.	Prime Minister Moudud of Bangladesh	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker, III, Secretary of State	Laquer box: Oval Palekh w/sleigh scene 3"x5.5", Recd—May 5, 1989, Est. Value—$350.00, In the Office of Protocol pending delivery to GSA.	Eduard Shevardnadze, Foreign Minister of Union of Soviet Socialist Republics.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	2 Porcelain dolls: w/lacquer stand in glass display cas, Recd—February 3, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Prime Minister Takeshita of Japan	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	Brooch: gold w/yellow sapphires/rubies/diamonds, Recd—July 5, 1989, Est. Value—$1,000.00, In the Office of Protocol pending delivery to GSA.	Hajahah, second wife of Sultan: Brunei	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	Perfume bottles: (9) procelain, Recd—July 5, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Hajahah, second wife of Sultan: Brunei	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	Length of fabric silk/blue w/gold threads, Recd—July 5, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Pengiran, wife of Sultan: Brunei	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	18k Pendant w/chain, sapphires/emeralds/rubies/diamonds, Recd—July 5, 1989, Est. Value—$3,000.00, In the Office of Protocol pending delivery to GSA.	Pengiran, wife of Sultan: Brunei	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	Porcelain plate w/photo image of Princess, Recd—July 6, 1989, Est. value—$50.00, In the Office of Protocol pending delivery to GSA.	Anak, wife of Sultan: Brunei	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	Asprey Set: purple leather Piaget watch, wallet, pen/pencil set, gold bracelet, Recd—July 6, 1989, Est. value—$1,500.00, In the Office of Protocol pending delivery to GSA.	Anak, wife of Sultan: Brunei	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	Lacquer box: black with gold flower design, 6.75"x3.5"x2", Recd—November 7, 1989, Est. value—$200.00, In the Office of Protocol pending delivery to GSA.	Matsunaga, Minister of Trade: Japan	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mrs. James A. Baker, Wife of Secretary of State.	Lacquer box: black with child and bright colored bird on lid, 6.5"x2.5"x1.5", Recd—November 21, 1989, Est. Value—$300.00, In the Office of Protocol pending delivery to GSA.	Mrs. Dobrynin, wife of Advisor: Union of Soviet Socialist Republics.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker, Wife of Secretary of State.	Piece of gold Chinese Silk, Recd—November 2, 1989, Est. Value—$200.00, In the Office of Protocol pending delivery to GSA.	Mrs. Roh, wife of President of Korea	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Reginald Bartholomew, Under Secretary for Security Assistance, Science & Technology.	3'×5.5' burgundy and brown carpet, Recd—June 7, 1989, Est. Value—$180.00+, Approved for Official Use.	Prime Minister Bhutto of Pakistan	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Everett E. Briggs, Ambassador to Honduras.	AK-47 assault rifle, Recd—Mid March 1989, Est. Value—$180.00+, In Office of Protocol pending delivery to GSA.	Commander of the Yatama Indians of Nicaragua.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Walter Cutler, U.S. Ambassador to Saudi Arabia.	Gold plated ceremonial knife with incised decorations, Recd—December 1988, Est. Value—$1,300.00, Delivered to GSA 1/25/90.	Unknown; Emirate of the Eastern Province.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Alene Gelbard, Wife of U.S. Ambassador to Mexico.	18k gold pendant in triangular shape set with smokey topaz, Recd—December 26, 1988, Est. Value—$690.00, Delivered to GSA 1/25/90.	General Guillermo Uhry of Bolivian Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Alene Gelbard, Wife of U.S. Ambassador to Mexico.	Silver candy box 7⅝"x5⅛"x2½", Recd—December 26, 1988, Est. Value—$520.00, Approved for Official Use.	General Guillermo Uhry of Bolivian Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Paul J. Hare, Acting Assistant Secretary of State for Near Eastern and South Asian Affairs.	3'×5' gold and brown carpet with geometric design, Recd—June 7, 1989, Est. Value—$180.00+, Approved for Official Use.	Prime Minister Bhutto of Pakistan	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Charles W. Hostler, Ambassador to Bahrain.	Large wooden chest, ornamented with brass Islamic inscriptions and fixtures, Recd—November 4, 1989, Est. Value—$300.00, Approved for Official Use.	Khalifa, Minister of Labor and Social Affairs, State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James R. Hooper, Deputy Chief of Mission, Embassy Kuwait.	Gold colored Christian Dior man's wristwatch, Recd—May 3, 1989, Est. Value—$180.00, Delivered to GSA 1/25/90.	Abdul Fattah Al-Bader, Chairman of KOTC, Kuwait.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
John H. Kelly, Assistant Secretary of State-Designate for Near Eastern and South Asian Affairs.	3'×5' Pakistani carpet, red and blue with geometric designs, Recd—June 7, 1989, Est. Value—$180.00+, Approved for Official Use.	Prime Minister Bhutto of Pakistan	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James R. Lilley, U.S. Ambassador-designated to China.	18k gold mans Rolex wristwatch, Recd—January 1, 1989, Est. Value—$200.00+, Delivered to GSA 1/25/90.	Wang You-Tseng, Chairman, Chinese Chamber of Commerce, Taiwan.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
David L. Mack, Ambassador to United Arab Emirates.	Watch, Rolex, Cellini, Man's Recd—October 1989, Est. Value—$1,720.00, In the Office of Protocol pending delivery to GSA.	Minister of Foreign Affairs, United Arab Emirates.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
David L. Mack, Ambassador to United Arab Emirates.	Watch, Rolex, Cellini, Woman's, Recd—October 1989, Est. Value—$1,580.00, In the Office of Protocol pending delivery to GSA.	Minister of Foreign Affairs, United Arab Emirates.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
David L. Mack, Ambassador to United Arab Emirates.	Watch, Rolex, Oyster, Man's, Recd—October 1989, Est. Value—$2,210.00, In the Office of Protocol pending delivery to GSA.	Chief of Staff, United Arab Emirates	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Richard M. Miles, Consul General, American Consul, Leningrad.	220 Volt, ceramic Samovar, Recd—August 25, 1989, Est. Value—$180.00+, Approved for Official Use.	Leningrad Experimental Factory of Porcelain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
G. Cranwell Montgomery, U.S. Ambassador to Oman.	Silver Khanjar ceremonial knife with bone handle, Recd—December 1988, Est. Value—$180.00, Delivered to GSA 1/25/90.	Sultan Al Busaidy, Governor of Muscat	Non-acceptance would have caused embarrassment to donor & U.S. Government.
G. Cranwell Montgomery, U.S. Ambassador to Oman.	Sterling silver ballpoint and fountain pen set by S.T. Dupont of Paris, Recd—December 29, 1988, Est. Value—$500.00, Delivered to GSA 1/25/90.	Suhail Bahwan, Omani businessman	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
G. Cranwell Montgomery, U.S. Ambassador to Oman.	Gold bracelet with six coins commemorating the coronation of King George V of England, Recd—December 17, 1989, Est. Value—$425.00, Delivered to GSA 1/25/90.	Saud Bahwan, Omani businessman	Non-acceptance would have caused embarrassment to donor & U.S. Government.
G. Cranwell Montgomery, U.S. Ambassador to Oman.	Sterling Silver incense burner by Graff of London, Globe shaped on pedestal with handle, Recd—December 22, 1989, Est. Value—$180.00, Delivered to GSA 1/25/90.	Deputy Prime Minister Fahr bin Taymour of Oman.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Daniel O'Donohue, U.S. Ambassador to Thailand.	2'×5' scroll with Oriental scene on gold colored background, Recd—May 1, 1989, Est. Value—$180.00, Delivered to GSA 1/25/90.	S.C. Huang, Thai businessman	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Joseph Verner Reed, Chief of Protocol	Sterling silver ballpoint and fountain pen set with Chancellor's signature engraved on side, Recd 6/5/89, Est. Value—$300.00, Delivered to GSA 1/25/90..	Helmut Kohl, Chancellor of the Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Otto J. Reich, Ambassador to Venezuela.	One-ounce gold, Recd—October 27, 1988, Est. Value—$400.00, At the American Embassy, Caracas, pending decision, regarding Official Use.	Dr. Jaime Lusinchi, President of Venezuela.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Teresita C. Schaffer, Assistant Secretary of State NEA.	Sheesham wood chest with brass inlay, Recd—December 22, 1989, Est. Value—$1,000, approved for Official Use.	Prime Minister Bhutto of Pakistan	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gaston J. Sigur, Assistant Secretary of State.	Gold plated man's wristwatch, Recd—February 6, 1989, Est. Value—180.00, Delivered to GSA 1/25/90.	Kim Jong Pil, President, Korean Democratic Party.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Paul D. Taylor, Ambassador to the Dominican Republic.	Six silver coins in mahogany box: Coins of 8, 4, & 2 Reales, 97% silver, Recd—December 24, 1988, Est. Value—$600.00, Approved for Official Use.	Rafael Bello Andino, Secretary of State to the Presidency of the Dominican Republic.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Margaret Tutwiler, Assistant Secretary of State.	Silver and gold pen set, Recd—May 31, 1989, Est. Value—$200.00 Approved for Official Use.	Helmut Kohl, Chancellor of the Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Margaret Tutwiler, Assistant Secretary of State.	18k gold necklace with pendant of the Prime Minister's Coat of Arms, Recd—July 7, 1989, Est. Value—$180.00 Delivered to GSA 1/25/90.	Deputy Prime Minister of Oman	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Michael E. Ussery, U.S. Ambassador to Morocco.	Blue and white wool carpet measuring 1.5 meters x 1.2 meters, Recd—July 5, 1989, Est. Value—$180.00 Delivered to GSA 1/25/90.	Governor of Meknes, Morocco	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Michael E. Ussery, U.S. Ambassador to Morocco.	15" gold necklace with silver design every four inches, Recd—June 16, 1989, Est. Value—$180.00, Delivered to GSA 1/25/90.	Sheikh Ashmawi, Saudi businessman	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Lucien S. Vandenbrouchke, Political Officer, American Embassy, Nouakchott.	Mauritanian handwoven rug, Recd—June 10, 1989, Est. Value—$1,000.00, Approved for Official Use.	Lt. Abderrahman Ould Lekouar, Chief of Naval Operations.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James Wojtasiewicz, Charge d'Affaires, American Embassy: Brunei.	Hollow gold ornament in shape of mangustan fruit, Recd—August 2, 1989, Est. Value—$800.00, In the Office of Protocol pending delivery to GSA.	Sultan Bolkiah: Brunei	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Renata Wojtasiewicz, Wife of Charge d'Affaires, American Embassy: Brunei.	Jewelled gold bracelet, Recd—October 28, 1989, Est. Value—$180.00+, Office of Protocol awaits delivery of gift.	Raja Isteri Pengiran Anak Saleha, First wife of Sultan: Brunei.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: USTR

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location.	Identity of foreign donor and government	Circumstances justifying acceptance
Amb. Carla A. Hills, USTR	Handpainted, black lacquer box; estimated value, $350; on display in USTR's conference room; accepted on 6/22/89.	Srichand P. Hindiya Chairman, Hindiya Group of Companies (London).	Presented at meeting in Washington, DC; Accepted to avoid cultural misunderstandings.

AGENCY: OFFICE OF U.S. TRADE REPRESENTATIVE

[Report of Travel or Expenses of Travel]

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief Description and estimated value of travel expenses accepted as consistent with the interest of the U.S. Government and occurring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
Geza Feketekuty Counselor to the U.S. Trade Representative.	Air travel from Geneva, Switzerland to Madrid, Spain at a cost of U.S. dollars $366.00. Recd July 3, 1989.	Government of Spain	Spanish government organized seminar on Uruguay Round, and paid travel for attendees. Limited requested support to air travel within Europe, as per U.S. government regulations.
James M. Murphy, Jr. Assistant U.S. Trade Representative.	Lodging—$309.00. Recd November 19 through 21, 1989.	SINTERCAFE is sponsored and paid for by the Gov't of Costa Rica (Min. of Agriculture, Economy, Commerce & Industry) & the Private Sector (Federation of Cooperatives of Costa Rica, Coffee Growers Association, & Coffee Traders.	SINTERCAFE is the most important event for coffee procucers to take place on a yearly basis. The chief purpose of the event is to bring together in Costa Rica participants from different countries to exchange ideas. There was no conflict of interest.

AGENCY: TREASURY DEPARTMENTAL OFFICES

[Report of Tangible Gifts]

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Nicholas F. Brady, Secretary	Philippines. Coin Commemorating Presidents Aquino and Reagan. Recd—April 5, 1989. Est. Value—$375. Reported to GSA December 20, 1989. Pending Transfer to GSA.	Vincente Jayme, Minister of Finance, The Philippines.	Received during meeting with Minister Jayme. Non-acceptance would have caused embarrassment to donor country and U.S. Government.
Nicholas F. Brady, Secretary	L'epee pendulum clock. Recd—July 16, 1989. Est. Value—$2,000. Acceptance pending with Secretary and General Counsel for official departmental use.	Government of France	Received while at 1989 Economic Summit in Paris, France. Non-acceptance would have caused embarrassment to donor country and U.S. Government.

AGENCY: DEPARTMENT OF VETERANS AFFAIRS

[Report of Travel or Expenses of Travel]

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
W. Ross Adey, M.D., Associate Chief of Staff for Research and Development.	Recd.—May 22, 1989. Est. Value—$2,012. Expended for airfare, hotel, and meals.	Royal Swedish Academy of Sciences, Sweden.	To present a paper on research being conducted in electromagnetic fields.
David J. Baylink, M.D., Chief Mineral Metabolism.	Recd.—November 8, 1989. Est. Value—$2,569. Expended for airfare, hotel, and meals.	Chemofux, Vienna, Austria	Guest Lecturer for "Treatment of Osteoporosis" Conference in Salzburg, Austria.
Jared R. Tinklenberg, M.D., Chief, Geriatric Psychiatry.	Recd.—August 30, 1989. Est. Value—$4,000. Expended for airfare, hotel, and meals.	Sandoz, Basle & International Psychogeriatrics Society, Kyota & Tokyo, Japan.	To lecture and present a manuscript.
Jerome A. Yesavage, M.D., Chief, Psychiatric Intensive Care Unit.	Recd.—February 23,1989. Est. Value—$3,200. Expended for airfare, hotel, and meals..	Spanish Gerontological Society, Murcia, Spain.	To lecture.
	Recd. September 4, 1989. Est. Value—$2,000. Expended for airfare, hotel, and meals.	Internat'l Psychogeriatrics Society, Tokyo, Japan.	To lecture.

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BILLING CODE 4701-20-M

federal register

Friday
November 9, 1990

Part III

Environmental Protection Agency

40 CFR Part 503

National Sewage Sludge Survey; Availability of Information and Data, and Anticipated Impacts on Proposed Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 503

[FRL-3857-2]

National Sewage Sludge Survey: Availability of Information and Data, and Anticipated Impacts on Proposed Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and data from the National Sewage Sludge Survey and request for comments.

SUMMARY: On February 6, 1989, EPA proposed regulations establishing requirements for the final use and disposal of sewage sludge (54 FR 5746–5902). The sewage sludge use and disposal standards (proposed 40 CFR Part 503) are required by section 405(d) of the Clean Water Act (CWA) of 1977, as amended by the Water Quality Act of 1987. EPA today is noticing the availability of information and data collected by the National Sewage Sludge Survey and its anticipated impacts on the proposed part 503 regulations. This survey was conducted to support the development of the part 503 regulations.

EPA is considering revising certain aspects of its part 503 approach to regulating the following sewage sludge use and disposal practices: Domestic septage; organic emissions from incinerators; non-agricultural land application; surface impoundments; and distribution and marketing/agricultural land application. Information and comments provided by scientific peer review panels, public comments and the information as well as data from the survey form the basis for the revisions to the proposed part 503 regulations now under consideration and for future rulemaking under CWA section 405(d). The changes the Agency is considering will encourage those practices that reuse sewage sludge for its beneficial qualities while protecting public health and the environment from risks related to contaminated sludges. Details of the format of the analytical and questionnaire survey data are provided in part IV of today's notice.

DATES: EPA will accept public comments on this notice until January 8, 1990.

ADDRESSES: Comments on this notice should be sent to: William R. Diamond, Criteria and Standards Division (WH-585), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The public docket is located in the Public Information Reference Unit, room 2904, Waterside Mall, 401 M Street, SW., Washington, DC. The docket is available for viewing from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. Comments provided on this notice will become part of the docket for the 40 CFR part 503 regulations. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying. See also part IV of this document regarding availability of documents.

FOR FURTHER INFORMATION CONTACT: Further information on the results from the National Sewage Sludge Survey may be obtained by writing or calling Dr. Alan Rubin, Sludge Regulation and Management Branch (WH-585), 401 M Street, SW., Washington, DC 20460, (202) 475-7301.

SUPPLEMENTARY INFORMATION: This notice is organized as follows:

Overview

Part I: Numerical Results From the National Sewage Sludge Survey

Part II: New Issues and Revised Approaches

Subpart A: Revised Approach for Regulating Domestic Septage
Subpart B: Revised Approach for Regulating Organic Emissions from Incinerators
Subpart C: Revised Approach for Regulating Non-Agricultural Land Application
Subpart D: Revised Approach for Regulating Surface Impoundments
Subpart E: Revised Approach for Regulating Distribution and Marketing and Agricultural Land Application
Subpart F: Alternative Pollutant Limits
Subpart G: Removal Credits

Part III: Implication of Survey Results on the Economic Impact Analysis

Part IV: Availability of Survey Information and Data

Overview

Congress adopted the Clean Water Act to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the Act prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The CWA directs EPA to promulgate regulations establishing limits on the types and amounts of pollutants discharged from various industrial, commercial and public sources of wastewater.

Congress recognized that the regulation of those discharging effluent directly into the nation's waters alone would not be sufficient to achieve the CWA's goals. Consequently, the Act requires EPA to restrict pollutant discharges for those who discharge wastewater indirectly through sewers flowing to publicly owned treatment works (POTWs) as well as direct discharges.

Municipal treatment works receive wastewater from industrial facilities, domestic wastes from private residences and run-off from various sources that must be treated prior to discharge by the POTW. Treatment results in an effluent that may be discharged and sewage sludge. The treatment sludge, usually over 90 percent water, also contains solids and dissolved substances. The chemical composition and biological constituents of the sludge depend upon the composition of the wastewater entering the treatment facilities and the subsequent treatment processes. Typically, these constituents may include volatiles, organic solids, nutrients, disease-causing pathogenic organisms (e.g., bacteria, viruses, etc.), heavy metals and inorganic ions, and toxic organic chemicals from industrial wastes, household chemicals, and pesticides.

The CWA of 1977 amended section 405 by adding subsection (d), which directed EPA to develop regulations containing guidelines for the use and disposal of sewage sludge. The regulations were to identify uses for sewage sludge, including disposal, and factors to be taken into account in determining the measures and practices applicable to each use or disposal. In addition, the regulations were to specify concentrations of pollutants which would interfere with sewage sludge use or disposal. The Water Quality Act of 1987 amended section 405(d) to add the requirement that EPA establish sludge use and disposal standards that include management practices and numerical limitations for the toxic pollutants in sewage sludge identified by EPA that may adversely affect public health or the environment. These standards must be adequate to protect public health and the environment from any reasonably anticipated adverse effects of the pollutants.

Background

As required by section 405(d), EPA relied on available information in developing proposed 40 CFR part 503. The primary source of information on the occurrence and concentration of pollutants in sewage sludge was determined from analyzing data from 43 to 45 publicly owned treatment works (POTWs) (depending on the pollutant) in 40 cities (U.S. EPA. 1982. "Fate of Priority Pollutants in Publicly Owned Treatment Works" Vol. I. Industrial Technology Division, Washington, D.C. EPA 440/1-82-303—the "40 City Study"). The data from the "40 City

Study" consisted of concentrations of 40 pollutants (12 metals, six base neutral organic compounds, six volatile organic compounds, nine pesticides and seven polychlorinated biphenyls—PCBs) in sludge analyzed from the POTWs in the "40 City Study."

At the time the proposed Part 503 regulations were being developed, the "40 City Study" provided the most comprehensive and best documented nationwide data base on the concentrations of pollutants in sewage sludge. Consequently, EPA concluded these data were an appropriate basis for developing the proposal. However, EPA recognized several deficiencies in using the "40 City Study" data. Key among them was the fact that data on final processed sewage sludge was generally not available from the "40 City Study." The procedure used to select POTWs in the "40 City Study" did not follow the statistical methods required to support unbiased national estimates of pollutant concentrations in POTW sludge.

The "40 City Study" was designed not to measure pollutant concentrations in the sewage sludge leaving a POTW, but to determine what happened to section 307(a)(1) priority toxic pollutants in POTWs employing secondary or advanced treatment. The study approach required that some sludge samples be taken at points within the POTW prior to final sewage sludge processing in order to account for organic pollutants that may be transformed into more elementary compounds or gases by final sludge processing like anaerobic digestion. However, the study did include information that enabled the Agency to "estimate" the dry weight concentrations of pollutants in POTW sewage sludge.

The second deficiency of the data from the "40 City Study" is that it is not current. Sewage sludge quality may have changed since 1978, due to the initiation of many pretreatment programs, development of new industrial facilities discharging wastewater into the POTW, and changes in wastewater treatment processes. Therefore, pollutant concentrations from the "40 City Study" would not be expected to reflect the current quality of sewage sludge. Moreover, analytical method advancements since the "40 City Study" allow for more accurate analyses of pollutants in the presence of suspended solids.

Although there are other sources of data on sewage sludge quality, these also suffered from deficiencies rendering them unsuitable for regulatory purposes. Some data were drawn from too narrow a geographic area or were drawn from POTWs of a particular size. Frequently, these data were not collected systematically and different sampling and analytical protocols were used in the same survey. In addition, many of these other data were collected prior to the "40 City Study" data.

While EPA believed that the "40 City Study" data were the appropriate data on which to base the proposed part 503 regulations, EPA concluded the data needed to be replaced or at a minimum supplemented to support the final regulations. Therefore, EPA undertook the National Sewage Sludge Survey to obtain a current and reliable data base for developing the final part 503 rule. This data base will also be used in developing a list of pollutants from which the Agency will select additional pollutants for further analyses and potential regulation under section 405(d) of the CWA.

The National Sewage Sludge Survey data collection effort began in August 1988 and was completed in September 1989. EPA sampled at 180 publicly owned treatment works and analyzed their sludges for more than 400 pollutants. In addition, through the use of detailed questionnaires, the survey collected information on sludge use and disposal practices from 462 public treatment facilities with at least secondary treatment of wastewater. The results of the National Sewage Sludge Survey have provided EPA current data and information essential to establishing numerical pollutant limits in the final part 503 rule that will encourage the beneficial reuse of sewage sludge and provide a greater degree of public health and environmental protection than the February 6, 1989 proposal.

The National Sewage Sludge Survey

The National Sewage Sludge Survey, a massive undertaking, was conducted to obtain credible analytical data in order to characterize the quality of final process sewage sludge. This data will be used to develop national estimates of the frequency of occurrence and the level of occurrence for pollutants in sewage sludge. EPA augmented sludge quality data with information concerning sewage sludge generation and treatment processes, current and alternate sludge use and disposal practices, and treatment and disposal cost data. These data, from a national sampling of POTWs employing secondary or advanced treatment of wastewater, are necessary for a number of essential analyses required for promulgating the final Part 503 regulations including the aggregate risk analysis (ARA) and the regulatory impact analysis (RIA) which project the benefits and expected effects associated with the final part 503 rule.

In establishing numerical limits, pollutant concentration data from the National Sewage Sludge Survey are required to estimate the level of risk posed by current sludge quality and current use or disposal methods. EPA must also have the data from the survey to test the reasonableness of its analyses and regulatory approach. Some areas of earlier concern included the accuracy of anticipated risks and analyzed characteristics of increased incidence of chemically induced disease in proximity to particular use or disposal methods. The survey information will assist the Agency in further evaluating its regulatory approach.

The results of the survey are also used to assess the potential shifts among the various use or disposal methods as a result of the proposed regulations. The effect of the rule is an important element in determining how rapidly to implement the regulations. For instance, if there is likely to be only a slight impact from a particular numerical limitation, immediate implementation may be appropriate. If, on the other hand, wide shifts in current methods of use or disposal are anticipated from the numerical limits, it might be appropriate to assist the POTWs in the development of more stringent pretreatment limits for their industrial dischargers or in the adoption of alternative use or disposal methods.

In addition, EPA will study the analytical results to identify a preliminary list of pollutants for second round rulemaking. Potential candidate pollutants are those that have a high frequency of occurrence and elevated concentrations. A final decision to regulate pollutants in the second round will depend, in significant measure, upon the availability of sufficient information on a pollutant's toxicity and environmental fate, effect and transport properties. The process EPA will follow to identify these pollutants will be similar to the process used in developing the pollutants of concern considered for regulation in this rulemaking.

Description of the Survey

The National Sewage Sludge Survey (NSSS) was a data collection effort relying on analytical sampling and an informational questionnaire to obtain data on sewage sludge quality and management. The NSSS was designed to collect information and data necessary to produce national estimates of:

(1) Concentrations of toxic contaminants in municipal sludge;

(2) Sludge generation and treatment processes;

(3) Sludge use and disposal practices and alternative use and disposal practices; and

(4) Sludge treatment and disposal costs.

Participants in the NSSS were selected from 11,407 POTWs in the United States, Puerto Rico, and the District of Columbia, identified in the EPA Office of Municipal Pollution Control's 1986 Needs Survey as using at least secondary wastewater treatment. Secondary treatment was defined as a primary clarification process followed by biological treatment and secondary clarification. In identifying POTWs for the NSSS, EPA excluded POTWs with "Present Effluent Characteristics" codes of "No Discharge", "Raw Discharge" and "Advanced Primary" from the 1986 Needs Survey.

As noted above, the NSSS effort consisted of a questionnaire and analytical survey component. The sample of POTWs for each component was selected from the 11,407 secondary treatment POTWs identified by the Agency. The POTWs included in the samples were selected such that each possible sample POTW from the available list of POTWs had the same probability of being selected. The two POTW samples are related in that all POTWs in the analytical survey were selected from among those POTWs that were already selected to receive the questionnaire.

The questionnaire survey was designed to allow survey results to be analyzed separately by flow rate group and by sewage sludge use and disposal practice. The secondary treatment POTWs identified by the Agency were divided into 24 mutually exclusive groups. Membership in these groups is based on four categories of wastewater flow rate and six primary use and disposal practices. The flow rates and use and disposal categories are as follows:

1. POTW average daily flow rate categories;

a. Flow less than or equal to one million gallons per day (MGD),

b. Flow more than one MGD but less than or equal to 10 MGD,

c. Flow more than 10 MGD but less than or equal to 100 MGD, and

d. Flow greater than 100 MGD.

2. POTW sewage sludge use and disposal practice groups;

a. Land application,

b. Distribution and marketing,

c. Incineration,

d. Monofill (sewage sludge only landfill),

e. Ocean disposal, and

f. Co-disposal landfill and other.

A 50 page questionnaire was mailed to every POTW selected for the NSSS. A total of 479 POTWs were selected to receive the questionnaire. General information gathered by the questionnaire concerned service area, POTW operating information, general sewage sludge use and disposal practices, pretreatment activities, wastewater and sewage sludge testing frequencies, and POTW financial information. POTWs also supplied disposal practice specific information and indicated which practice(s) would be likely alternatives to current disposal practices.

POTWs in the analytical survey were restricted to the contiguous States and the District of Columbia. The POTWs in the analytical survey were drawn from those included in the questionnaire survey. A total of 208 POTWs from the four flow rate categories were selected for sampling and analysis. EPA contract personnel collected sewage sludge samples just prior to disposal from each POTW according to sampling and preservation protocols.

Samples were analyzed for a total of 419 analytes. These analytes included every organic, pesticide, dibenzofurans, dioxins and PCBs for which EPA has gas chromatography—mass spectrometry (GC/MS) standards. The remaining pollutants are metals and inorganics. The pollutants were also selected in consideration of:

(1) The CWA section 307(a) priority pollutants;

(2) Toxic compounds highlighted in the Domestic Sewage Study;

(3) Resource Conservation and Recovery Act (RCRA, Pub. L. 94-580) Appendix VIII pollutants; and

(4) Contaminants of suspected concern in municipal sludge.

Sludge sampling, preservation, and analytical protocols were specifically developed for this survey. Analytical methods 1624 and 1625 were adapted from standard methods to deal specifically with the sludge matrix for volatile and semi-volatile organics, respectively, and utilize gel permeation chromatography sample clean-up followed by isotope dilution gas chromatography—mass spectrometry analyte identification and quantification. Pesticides and PCBs, and dibenzofurans and dioxins are analyzed by analytical methods 1618 and 1613, respectively. Metals, other inorganics and classicals are analyzed by standard EPA methods. The analytical methods were either developed, chosen or adapted specifically for the sludge matrix to give the most reliable, accurate and precise measurements of the 419 analytes undertaken in any previous analytical survey.

All raw analytical results were subjected to a two step quality assurance/quality control (QA/QC) procedure. In the first step, each result and analytical procedure were checked against analytical method specifications. If this step was satisfied, then the result was evaluated for potential outlier characteristics by checking on laboratory identification number validity as well as sample origin. If the sample raw data passed both of these checks, it was certified and reported to EPA.

Part I: Numerical Results From the National Sewage Sludge Survey

Disposal Practices

Based on information in the 1986 Needs Survey, EPA, in designing the survey, assigned each of the 11,407 POTWs classified by the Agency as secondary treatment facilities to one of six reported primary use and disposal practices (the "survey disposal practices"). The six possible disposal practice categories were: (1) Land application, (2) distribution and marketing, (3) incineration, (4) monofill, (5) co-disposal landfill, and (6) ocean disposal. EPA sent the questionnaire to POTWs randomly selected, according to a stratified probability design, from the 11,407 secondary treatment POTWs grouped into these six categories. Selection at random is the statistical basis for developing unbiased national estimates for the dry weight concentrations in sludge for pollutants of concern and all other quantities of interest.

The NSSS questionnaire asked POTWs (question 36 of General POTW Information section I in the questionnaire), to indicate which of these six disposal practices were used to dispose of sludge in 1988. However, not all of the responding POTWs used one of these six disposal practices. More complete disposal practice information was obtained from another question (question 24 in section I) in the questionnaire. This question provided the opportunity for POTWs to record information for nine disposal practices (the "reported disposal practice"). The first six of these nine practices are as listed above. The remaining three are: (7) Co-incineration, (8) surface disposal, and (9) other. Definition of the first eight practices as supplied by the questionnaire are listed below.

Land Application—The application of liquid, dewatered, dried, or composted sewage sludge to the land by surface

spraying, surface spreading, or subsurface injection. Sludge may be applied to land intended for a number of end uses including, but not limited to, cropland, pasture, commercially grown turf, silviculture, land for reclamation, and dedicated sites. The sludge may be applied by the POTW or by a distributor or end user under a contract or similar control mechanism with the POTW. Note that in this definition the POTW has direct control over the application of sewage sludge.

Distribution and Marketing—The give-away, transfer, or sale of sewage sludge or sewage sludge product (e.g., composted sludge product) in either bagged or bulk form. The POTW does not apply the sludge and the end-user applying the sludge is not under the direct control of the POTW. Note that a label or notice provided with the sewage sludge does not constitute direct control.

Sewage Sludge Incineration—The treatment of sewage sludge exclusively in an enclosed device using controlled flame combustion. Includes all sewage sludge incinerators on site and also, those facilities transporting sewage sludge to another facility that operates sewage sludge incinerators.

Monofill—A controlled area of land that contains one or more sewage sludge units. A sewage sludge unit is defined as a controlled area of land where only sewage sludge is placed. The sludge is covered with a cover material at the end of each operating day or at more frequent intervals.

Co-Disposal Landfill—An area of land or an excavation that is used for the permanent disposal of solid waste residuals, and sewage sludges. These include, but are not limited to, municipal landfills that accept sewage sludge for disposal in conjunction with other waste materials.

Ocean Disposal—Dumping or controlled release of sewage sludge from a barge or other vessel into marine water.

Co-Incineration—The combined treatment of sewage sludge and other combustible waste materials (e.g., trash and other municipal solid waste) in an enclosed device using controlled flame combustion.

Surface Disposal—A controlled area of land where only sewage sludge is placed for a period of one year or longer. Sludge placed in this area is not provided with a daily or final cover. (Surface disposal areas may become naturally covered with vegetation as a result of seed drift.) Surface disposal does not include areas where sludge has formed or is currently being formed and being deposited as a result of ongoing treatment (e.g., finishing ponds). Surface disposal can be a natural topographical depression, man-made excavation or diked area formed primarily of earthen material designed to store (not treat) sewage sludge for a period of one year or longer. Surface disposal also includes placement of sludge in piles for a period of one year or more, as a means of disposal.

1. Frequency of Reported Disposal Practices

The number of POTWs for each of the six survey disposal practice groups are recorded by reported major disposal practice in Tables I-1 and I-2. If a POTW used more than one disposal method in 1988, the practice used to dispose of the largest percentage of sludge was deemed the major disposal practice. Table I-1 presents a cross tabulation of 1986 Needs Survey and reported 1988 major disposal practice frequencies for the questionnaire survey. This table, and the other cross tabulations that follow, reports four numbers in each box. Each box describes facilities that meet all of the conditions required to be reported in the row and all of the conditions required to be in the column. As summarized in the upper left hand corner, the first number in a box reports the frequency, or number of facilities, in the NSSS that belong in that box. The second number reports the number of facilities as a percent of the total sample for the given frequency. The third number reports the percent of the row (survey design category) for the given frequency. And, the last number reports the percent of the column (report category) for the given frequency. For example, Column 1 of Table I-1 shows that 161 (total) or 33.61 percent of the 479 POTWs responding to the NSSS questionnaire reported land application as their major disposal practice. The first number in each box shows the number of the 161 POTWs EPA had assigned to disposal practices 1 through 6 based on the 1986 Needs data.

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TABLE I-1.

POTWS IN THE QUESTIONNAIRE SURVEY

1986 NEEDS DISPOSAL CLASSIFICATION VS 1988 REPORTED DISPOSAL PRACTICE FREQUENCIES

POTWS REPORTING SEVERAL DISPOSAL PRACTICES ARE CLASSIFIED ACCORDING TO THE PRACTICE USED TO DISPOSE OF THE MAJORITY OF SLUDGE

	Frequency Percent Row Pct Col Pct	Reported Major Disposal Practices as Reported in the NSSS												
		1	2	3	4	5	6	7	8	9	10	11	12	TOTAL
Major Disposal Practices Based On 1986 NEEDS Survey	1	65 13.57 56.03 40.37	1 0.21 0.86 3.70	0 0.00 0.00 0.00	1 0.21 0.86 3.57	21 4.38 18.10 27.63	0 0.00 0.00 0.00	0 0.00 0.00 0.00	18 3.76 15.52 30.51	4 0.84 3.45 16.67	2 0.42 1.72 50.00	0 0.00 0.00 0.00	4 0.84 3.45 36.36	116 24.22
	2	26 5.43 46.43 16.15	16 3.34 28.57 59.26	1 0.21 1.79 1.59	2 0.42 3.57 7.14	9 1.88 16.07 11.84	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.21 1.79 1.69	1 0.21 1.79 4.17	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	56 11.69
	3	3 0.63 4.41 1.86	0 0.00 0.00 0.00	55 11.48 80.88 87.30	0 0.00 0.00 0.00	6 1.25 8.82 7.89	1 0.21 1.47 4.76	3 0.63 4.41 100.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	68 14.20
	4	4 0.84 11.43 2.48	2 0.42 5.71 7.41	1 0.21 2.86 1.59	21 4.38 60.00 75.00	5 1.04 14.29 6.58	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 0.42 5.71 3.39	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	35 7.31
	5	63 13.15 34.05 39.13	8 1.67 4.32 29.63	6 1.25 3.24 9.52	4 0.84 2.16 14.29	35 7.31 18.92 46.05	1 0.21 0.54 4.76	0 0.00 0.00 0.00	38 7.93 20.54 64.41	19 3.97 10.27 79.17	2 0.42 1.08 50.00	2 0.42 1.08 100.00	7 1.46 3.78 63.64	185 38.62
	6	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	19 3.97 100.00 90.48	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	19 3.97
	TOTAL	161 33.61	27 5.64	63 13.15	28 5.85	76 15.87	21 4.38	3 0.63	59 12.32	24 5.01	4 0.84	2 0.42	11 2.30	479 100.00

DISPOSAL PRACTICES:

1 = Land Application
2 = Distribution and Marketing
3 = Incineration
4 = Monofill
5 = Co-Disposal Landfill
6 = Ocean Disposal
7 = Co-Incineration
8 = Surface Disposal
9 = Other
10 = Out of Business
11 = Ineligible
12 = Non-Respondents

TABLE I-2.

POTWS IN THE ANALYTICAL SURVEY

1986 NEEDS DISPOSAL CLASSIFICATION VS REPORTED DISPOSAL PRACTICE FREQUENCIES

POTWS REPORTING SEVERAL DISPOSAL PRACTICES ARE CLASSIFIED ACCORDING TO THE PRACTICE USED TO DISPOSE OF THE MAJORITY OF SLUDGE

	Frequency Percent Row Pct Col Pct	Reported Major Disposal Practices												
		1	2	3	4	5	6	7	8	9	10	11	12	TOTAL
Major Disposal Practices Based on 1986 NEEDS Survey	1	30 14.42 65.22 37.04	1 0.48 2.17 10.00	0 0.00 0.00 0.00	1 0.48 2.17 16.67	7 3.37 15.22 25.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 0.96 4.35 16.67	0 0.00 0.00 0.00	3 1.44 6.52 12.00	2 0.96 4.35 66.67	0 0.00 0.00 0.00	46 22.12
	2	6 2.88 50.00 7.41	4 1.92 33.33 40.00	0 0.00 0.00 0.00	1 0.48 8.33 16.67	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.48 8.33 4.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 5.77
	3	2 0.96 7.41 2.47	0 0.00 0.00 0.00	20 9.62 74.07 86.96	0 0.00 0.00 0.00	3 1.44 11.11 10.71	0 0.00 0.00 0.00	2 0.96 7.41 100.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	27 12.98
	4	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 0.96 100.00 33.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 0.96
	5	40 19.23 34.48 51.28	5 2.40 4.31 50.00	3 1.44 2.59 13.04	2 0.96 1.72 33.33	21 10.10 18.10 67.74	1 0.48 0.86 16.67	0 0.00 0.00 0.00	11 5.29 9.48 84.62	8 3.85 6.90 100.00	21 10.10 18.10 84.00	1 0.48 0.86 33.33	3 1.44 2.59 100.00	116 55.77
	6	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	5 2.40 100.00 83.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	5 2.40
	TOTAL	78 37.50	10 4.81	23 11.06	6 2.88	31 14.90	6 2.88	2 0.96	13 6.25	8 3.85	25 12.02	3 1.44	3 1.44	208 100.00

DISPOSAL PRACTICES:

1 = Land Application
2 = Distribution and Marketing
3 = Incineration
4 = Monofill
5 = Co-Disposal Landfill
6 = Ocean Disposal
7 = Co-Incineration
8 = Surface Disposal
9 = Other
10 = No Sludge Sampled
11 = Primary Samples Only
12 = Out of Business/Ineligible

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Thus, for example, in Box 1 (upper left hand corner) 65 of the 161 POTWs now reporting land application, had been classified by EPA as sludge land appliers for purposes of the survey design. These 65 POTWs represented 13.57 percent of the total 479 POTWs and 40.37 percent (column percent) of the 161 land appliers. These 65 POTWs also represent 56.03 percent of 116 POTWs EPA assigned to land application (row percent).

Column 1 through 9 account for the 462 POTWs that responded to the survey. Columns 10 and 11 report the number of POTWs determined to be out of business, or ineligible. Of those POTWs which were ineligible, one responded that it would not be operational until 1990 and the other stated that it only performed primary treatment of wastewater. The remaining reported disposal practice column of Table I-1 records the distribution of survey non-respondents in the questionnaire sample.

Table I-2 records the cross tabulation for 1986 Needs Survey and major reported 1988 disposal practices for the 208 POTWs in the analytical survey. It should be noted that some POTWs reported their major 1988 disposal practice as "sludge lagoon." Other facilities that used sludge lagoons in 1988 recorded their disposal practice as surface disposal. For Tables I-1 and I-2, the number of POTWs listing "sludge lagoon" as their major disposal practice in 1988 were included in the count of POTWs using surface disposal. Data and POTW schematics for POTWs that recorded sludge lagoons under either the disposal practice "surface disposal" or "other" are currently being reviewed by the EPA to determine if indeed the sludge lagoon is a surface disposal or whether the sludge is lagooned as a form of wastewater treatment.

Columns 1 through 9 account for the 177 POTWs in the analytical portion of the survey with sludge generated by secondary or better wastewater treatment. Column 10 reports the number of POTWs that were not sampled because they were not disposing of sludge generated by secondary or better wastewater treatment during the time when physical samples were taken. Column 11 reports the number of POTWs where sludge generated by less than secondary wastewater treatment were the only physical samples taken. Finally, column 12 reports the number of POTWs classified as out of business or ineligible.

A frequency of POTWs and the disposal practice listed for those POTWs that characterized their 1988 major disposal practice as "other", excluding POTWs that responded sludge lagoon to this question, are listed in Table I-3. Nine of these POTWs were in the analytical survey. In all cases, the trip report completed by the EPA contractor who sampled the facility indicated that the final disposal practice for sludge from the POTW was one of the first six major disposal practices. However, these facilities are included under the reported major disposal practice of "other" in Tables I-1 and I-2 because they reflect the information provided by the respondents. Data and POTW schematics are currently being reviewed by the EPA to determine if more definitive disposal practices can be recorded for these POTWs.

TABLE I-3.—LISTING OF SURVEY RESPONSES REPORTED IN DISPOSAL PRACTICE CATEGORY "OTHER"

Response	Number of POTWs
Composting	1
Discharged	11
Drying Bed	1
New Facility	1
Private Contractor	1
Storage	1
Stored Off-Site	1
To Other POTW	1
To Regional Plant	1
Transferred	5
Total	24

2. National Estimates of the Frequency of POTWs Using the Nine Disposal Practices

Based on reported major 1988 disposal practice data from the questionnaire survey, the national number of POTWs using one of the nine disposal categories was estimated. Disposal practices for POTWs that did not respond to the survey were considered to be the survey disposal practice reported in the 1986 Needs Survey. National totals for the nine practices reflect survey sampling weights. These estimates as well as a 95 percent confidence interval for the estimated total are reported on Table I-4. The difference between the number of POTWs estimated to use a disposal practice based on the NSSS data and the number of POTWs using the practice based on 1986 Needs Survey data is also listed.

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TABLE I-4.

NATIONAL ESTIMATES OF DISPOSAL PRACTICE FREQUENCIES

Disposal Practice	1986 NEEDS Classification	1988 Estimated	Change 1988 Estimate -1986 NEEDS	Variance of the Estimate	Lower 95% CI on Estimate	Upper 95% CI on Estimate
Land Application	2,233	3,542	1,309	127,440	2,842.30	4,241.70
Dist. and Marketing	94	308	214	18,292	42.91	573.09
Incineration	144	294	150	9,912	98.86	489.14
Monofill	45	203	158	10,009	6.92	399.08
Co-disposal Landfill	8,871	1,851	-7,020	92,793	1,253.94	2,448.06
Ocean Disposal	20	115	95	8,515	-65.86	295.86
Co-incineration	.	6	6	8	0.37	11.63
Surface Disposal	.	3,147	3,147	166,884	2,345.31	3,946.69
Other	.	1,526	1,526	107,536	883.26	2,168.74
Out of Business	.	229	229	17,716	-31.88	489.88
Ineligible	.	186	186	16,809	-68.11	440.11
	11,407	11,407	0			

Note: CI Stands For Confidence Interval. The Agency is 95 Percent Confident that the True National Total is No Less than the "Lower 95 Percent CI on Estimate" and that the True National Total is No More Than the "Upper 95 Percent CI on Estimate".

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The number of facilities estimated to be using ocean disposal is higher than what the Agency expected, though the 95 percent confidence interval includes reasonable estimates. Because ocean disposal requires a permit and these permits are unusual, it is assumed that no more than thirty facilities use this practice. The Agency will investigate further and, if appropriate, adjust the national estimates.

3. Estimate of the Number of POTWs Using Multiple Disposal Practices

Sixty-five of the responding 462 POTWs reported using multiple disposal practices in 1988. The estimated national frequency of POTWs using multiple disposal practices are listed in Table I–5 by major disposal practice. These estimates are further delineated by the secondary practices in Table I–6.

Average Daily Flow

Based on the average daily flow of wastewater reported in the 1986 Needs Survey, each of the 11,407 POTWs with secondary or better treatment was assigned to one of four flow group categories (the "survey flow rate group"). The four survey flow groups are: (1) More than 100 million gallons per day (MGD), (2) greater than 10 MGD but less than or equal to 100 MGD, (3) greater than one MGD but less than or equal to 10 MGD, and (4) less than or equal to one MGD. Flow rate was one of the stratification variables used to design the probability sample of POTWs to receive the questionnaire. The other stratification variable was primary disposal practice reported in the 1986 Needs Survey.

TABLE I–5.—NATIONAL ESTIMATES OF POTWS USING MULTIPLE DISPOSAL PRACTICES

Major disposal practice	Estimated No. of POTWs using multiple practices
Land Application	166
Dist. and Marketing	17
Incineration	32
Monofill	2
Co-disposal Landfill	27

TABLE I–5.—NATIONAL ESTIMATES OF POTWS USING MULTIPLE DISPOSAL PRACTICES—Continued

Major disposal practice	Estimated No. of POTWs using multiple practices
Ocean Disposal	0
Co-incineration	2
Surface Disposal	138
Other	117
Total	501

TABLE I–6.—ESTIMATED NUMBER OF POTWS USING MULTIPLE DISPOSAL PRACTICES

Major disposal practice	Secondary disposal practice	Estimated No. of POTWs
Land Application	Distribution & marketing D&M.	14
	Incineration	2
	Monofill	3
	Co-disposal landfill	101
	D&M, surface disposal.	1
	D&M, co-disposal landfill.	23
	D&M, co-disposal, other.	2
	D&M, other	1
	Other	19
		166
Distribution and marketing.	Land application	11
	Land application, co-disposal landfill.	2
	Incineration	4
		17
Incineration	Land application	1
	Distribution & marketing.	2
	Monofill	1
	Co-disposal landfill	28
		32
Monofill	Co-disposal landfill	2
Co-disposal landfill	Land application	9
	Distribution & marketing.	7
	Incineration	7
	Other	2
	Land application, D&M.	2
		27

TABLE I–6.—ESTIMATED NUMBER OF POTWS USING MULTIPLE DISPOSAL PRACTICES—Continued

Major disposal practice	Secondary disposal practice	Estimated No. of POTWs
Co-incineration	Co-disposal	2
Surface disposal	Land application	117
	Co-disposal landfill	1
	Land application, D&M.	20
		138
Other	Land application	115
	Monofill	2
		117

Average daily flow information for 1988 was obtained from the questionnaire (Question 9b of General POTW Information section I.) These data were then categorized into one of four flow rate groups. The categories for 1988 reported flow rate groups are the same used to categorize the 1986 Needs Survey flow rates. Flow rate groups based on the categorization of 1988 data is referred to as "reported flow rate group."

1. Frequency of POTWs in Each Flow Rate Group

The number of POTWs for each of the four 1986 Needs Survey based flow rate groups are recorded by reported 1988 flow rate group in Tables I–7 and I–8. Table I–7 presents a cross tabulation of survey and reported flow rate groups for the questionnaire survey. Column 1 through 4 account for the 462 POTWs that responded to the survey. Columns 5 and 6 were created from those POTWs that were determined to be out of business, or ineligible. Of those POTWs that were ineligible, one responded that it would not be operational until 1990 and the other stated that it only performed primary treatment of wastewater. Column 7 of Table I–7 records the distribution of survey non-respondents in the questionnaire sample by flow rate group. Table I–8 records the cross tabulation for survey and major reported disposal practices for the 208 POTWs in the analytical survey.

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TABLE I-7.

POTWs IN THE QUESTIONNAIRE SURVEY
1986 NEEDS FLOW RATE CLASSIFICATION VS. 1988 REPORTED FLOW RATE GROUP FREQUENCIES

1986 NEEDS Based Flow Rate Group	Frequency / Percent / Row Pct / Col Pct	1988 Reported Flow Rate Group: 1	2	3	4	5	6	7	TOTAL
	1	24	2	2	0	0	0	0	28
		5.01	0.42	0.42	0.00	0.00	0.00	0.00	5.85
		85.71	7.14	7.14	0.00	0.00	0.00	0.00	
		96.00	1.87	1.17	0.00	0.00	0.00	0.00	
	2	1	97	7	0	0	0	2	107
		0.21	20.25	1.46	0.00	0.00	0.00	0.42	22.34
		0.93	90.65	6.54	0.00	0.00	0.00	1.87	
		4.00	90.65	4.09	0.00	0.00	0.00	18.18	
	3	0	7	139	11	0	0	2	159
		0.00	1.46	29.02	2.30	0.00	0.00	0.42	33.19
		0.00	4.40	87.42	6.92	0.00	0.00	1.26	
		0.00	6.54	81.29	6.92	0.00	0.00	18.18	
	4	0	1	23	148	4	2	7	185
		0.00	0.21	4.80	30.90	0.84	0.42	1.46	38.62
		0.00	0.54	12.43	80.00	2.16	1.08	3.78	
		0.00	0.93	13.45	93.08	100.00	100.00	63.64	
	TOTAL	25	107	171	159	4	2	11	479
		5.22	22.34	35.70	33.19	0.84	0.42	2.30	100.00

Average Daily Flow Rate Groups:
1 = Greater than 100 MGD
2 = 10 < Flow <= 100
3 = 1 < Flow <= 10
4 = Flow <= 1
5 = Out of Business
6 = Ineligible
7 = Nonrespondents

TABLE I-8.

POTWS IN THE ANALYTICAL SURVEY
1986 NEEDS FLOW RATE CLASSIFICATION VS. 1988 REPORTED FLOW RATE GROUP FREQUENCIES

1986 NEEDS Based Flow Rate Group	Frequency / Percent / Row Pct / Col Pct	1988 Reported Flow Rate Group: 1	2	3	4	5	6	7	TOTAL
	1	16	1	2	0	1	0	0	20
		7.69	0.48	0.96	0.00	0.48	0.00	0.00	9.62
		80.00	5.00	10.00	0.00	5.00	0.00	0.00	
		100.00	1.96	3.03	0.00	4.00	0.00	0.00	
	2	0	49	4	0	2	1	0	56
		0.00	23.56	1.92	0.00	0.96	0.48	0.00	26.92
		0.00	87.50	7.14	0.00	3.57	1.79	0.00	
		0.00	96.08	6.06	0.00	8.00	33.33	0.00	
	3	0	1	55	7	0	2	0	65
		0.00	0.48	26.44	3.37	0.00	0.96	0.00	31.25
		0.00	1.54	84.62	10.77	0.00	3.08	0.00	
		0.00	1.96	83.33	15.91	0.00	66.67	0.00	
	4	0	0	5	37	22	0	3	67
		0.00	0.00	2.40	17.79	10.58	0.00	1.44	32.21
		0.00	0.00	7.46	55.22	32.84	0.00	4.48	
		0.00	0.00	7.58	84.09	88.00	0.00	100.00	
	TOTAL	16	51	66	44	25	3	3	208
		7.69	24.52	31.73	21.15	12.02	1.44	1.44	100.00

Average Daily Flow Rate Groups:
1 = Greater Than 100 MGD
2 = 10 < FLOW <= 100
3 = 1 < FLOW <= 10
4 = FLOW <= 1
5 = No Sludge Sampled
6 = Only Primary Sludge Sampled
7 = Ineligible or Out of Business

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Samples were not taken from some of the POTWs in the survey that indicated they disposed of sludge in lagoons. During pre-sampling phone contacts, facilities indicated that they had no sludge. Hence, they are classified as "No Sludge Sampled" in Table I-8. Additionally, samples from three POTWs were excluded from the analytical survey because only primary treatment sludge was sampled. These samples are classified in the table as "Primary Samples Only."

2. National Estimates of the Frequency of POTWs From Each of the Flow Rate Groups

Based on reported 1988 flow rate group data from the questionnaire survey, the national number of POTWs in each group was estimated. Flow rate groups for POTWs that did not respond to the survey were considered to be the survey flow rate group determined from the 1986 Needs Survey. National totals for the four flow rate groups reflect survey sampling weights. These estimates as well as a 95 percent confidence interval for the estimated total are reported on Table I-9. Also listed on Table I-9 is the difference between the number of POTWs estimated to be in each flow rate group based on 1988 data and number of POTWs in that flow rate group as determined from the 1986 Needs Survey.

3. National Estimates of the Frequency of POTWS by Reported Flow Rate Group and Major Disposal Practice

The number of POTWs in the nation for each flow rate major disposal practice category have been estimated based on 1988 data and are presented in Table I-10. Not reflected on this table are the 415 POTWs which were estimated to be either closed or out of business.

TABLE I-9.—NATIONAL ESTIMATES OF POTWS BY AVERAGE DAILY FLOW GROUP

Reported flow group	1986 NEEDS classification	1988 estimated	Change 1988 Estimated−1986 NEEDS	Variance of the estimate	Lower 95% CI on estimate	Upper 95% CI on estimate
> 100 MGD	28	26	−2	2.8	22.73	29.27
10 < FLOW <= 100	324	420	96	8,968.3	234.39	605.61
1 < FLOW <= 10	1,941	2,456	515	47,198.8	2,030.18	2,881.82
FLOW <= 1	9,114	8,090	−1,024	82,511.3	7,526.99	8,653.01
Out of Business		229	229	70,796.0	−292.51	750.51
Ineligible		186	186	16,808.7	−68.11	440.11
	11,407	11,407	0			

NOTE: CI Stands For Confidence Interval. The Agency is 95 Percent Confident that the True National Total is No Less than the "Lower 95 Percent CI on Estimate" and that the True National Total is No More Than the "Upper 95 Percent CI on Estimate".

TABLE I-10.—ESTIMATED NUMBER OF POTWS BY FLOW RATE GROUP AND DISPOSAL PRACTICE BASED ON 1988 DATA

Flow rate group	Disposal practices									
	1	2	3	4	5	6	7	8	9	Total
1	10	1	8	0	1	4	0	1	1	26
2	83	20	64	10	81	12	4	121	24	419
3	1,302	95	129	90	692	5	2	120	21	2,456
4	2,146	193	93	103	1,077	94	0	2,905	1,479	8,090
	3,541	309	294	203	1,851	115	6	3,147	1,525	10,991

Flow Rate Group (MGD): 1 = FLOW > 100; 2 = 10 < FLOW <= 100; 3 = 1 < FLOW <= 100; 4 = FLOW <= 100.
Disposal Practices: 1 = Land Application; 2 = Distributing and Marketing; 3 = Incineration; 4 = Monofill; 5 = Co-Disposal Landfill; 6 = Ocean Disposal; 7 = Co-Incineration; 8 = Surface Disposal; 9 = Other.

Pollutant Concentrations

The national pollutant concentration estimates in today's Notice were calculated using the results from the analytical portion of the National Sewage Sludge Survey. They are estimates for the distribution among POTWs of pollutant concentrations in dry weight sewage sludge that is ready for disposal and that is generated by secondary or better treatment of wastewater.

1. Data Used to Calculate Pollutant Concentrations

A total of 208 POTWs were selected at random, from within the four flow groups of the survey design, for physical sampling but no pollutant concentration data from POTWs in three categories were used in the calculation of national estimates. These three categories are Primary Samples Only, No Sludge Sampled, and Out of Business/Ineligible. Concentration data from the remaining 177 POTWs were used in the determination of national estimates.

The three categories are more explicitly defined as follows:

Primary Samples Only—Samples of sewage sludge generated during less than secondary treatment were collected from some POTWs and for three POTWs they were the only type of sample collected. These data were not suitable to use in determining the national estimates for pollutant concentrations in sewage sludge generated during secondary or better treatment.

No Sludge Sampled—No sewage sludge samples were collected at 25 of the selected POTWs. One POTW was not sampled because all sewage sludge at that POTW was generated using primary wastewater treatment. Additionally, pre-sampling phone contacts indicated that sewage sludge was not being use or disposed of at 24 POTWs during the time of the NSSS. These POTWs claimed to treat their wastewater in stabilization ponds; sewage sludge generated in a stabilization pond remains in the pond

until it is used or disposed at some infrequent interval.

Out of Business/Ineligible—Two of the selected POTWs were closed and another POTW could not be contacted by telephone. Therefore, no data were available for those POTWs because no samples could be collected.

2. Analytical Detection Limits and Percent Solids

Each NSSS sample was tested by EPA contract laboratories for 419 analytes or pollutants. Each was assigned a minimum level, a form of "detection limit" used by the Agency, in the protocol of the analytical method. That minimum level, as applied to the determination of pollutants by gas chromatography combined with mass spectrometry (GCMS), is defined by the EPA's Industrial Technology Division as the level at which the entire analytical system shall give recognizable mass spectra and acceptable calibration points. In the NSSS, the minimum level is equivalent to the minimum concentration or amount of pollutant that could be measured.

If a pollutant was quantified above the minimum level, as adjusted for interferences, the measured concentration in dry weight units is reported under the variable "AMOUNT" in the NSSS data base. However, if analytical testing did not yield a pollutant concentration above the minimum level, the dry weight value of the minimum level is recorded for the sample in the variable "DETLIMIT."

Pollutant concentrations and minimum levels were reported in dry weight units due to differences in sludge samples. A sludge pollutant concentration reported in dry weight units is a function of the sample's percent solids. Percent solids range from less than one percent to 100 percent in NSSS samples. This standardized reporting unit allows all sludges to be evaluated on an equivalent basis with respect to pollutant loads. Implicit in this form of reporting is that pollutants are associated with the solid phase of sludge. Dry weight concentrations of zinc are plotted against percent solids in Figure I-1. The plot of dry weight concentration measurements illustrates that percent solids do not provide information for predicting the dry weight zinc concentration in sludge. Wet weight zinc concentrations plotted against percent solids are illustrated in Figure I-2. The plot of the wet weight concentration measurements illustrates that zinc concentrations in wet sludge increase as the percent solids in that sludge increases. Wet and dry weight conversions assume a density of one.

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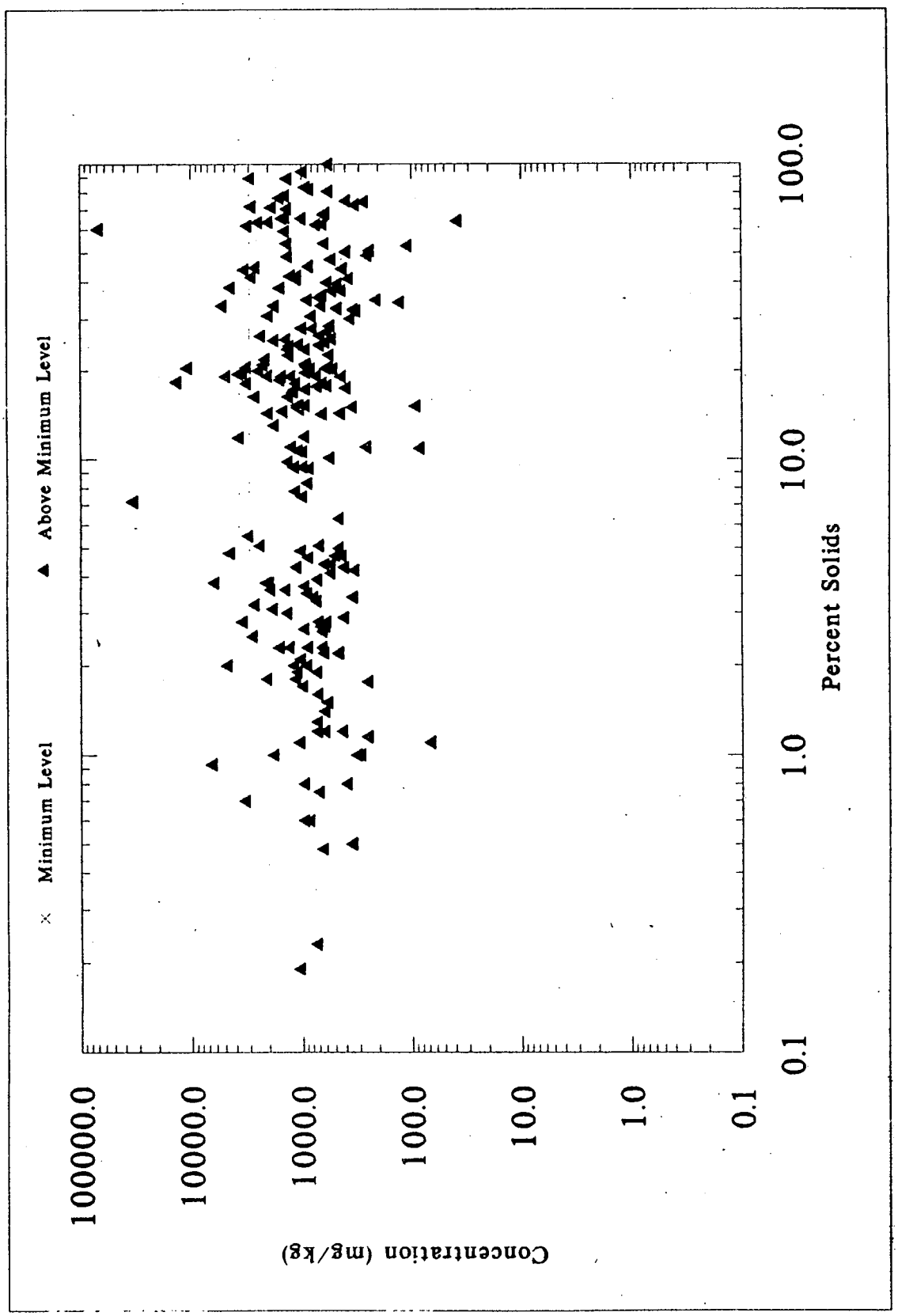

Figure I-1. Percent Solids of NSSS Samples Versus DRY WEIGHT Concentrations of ZINC

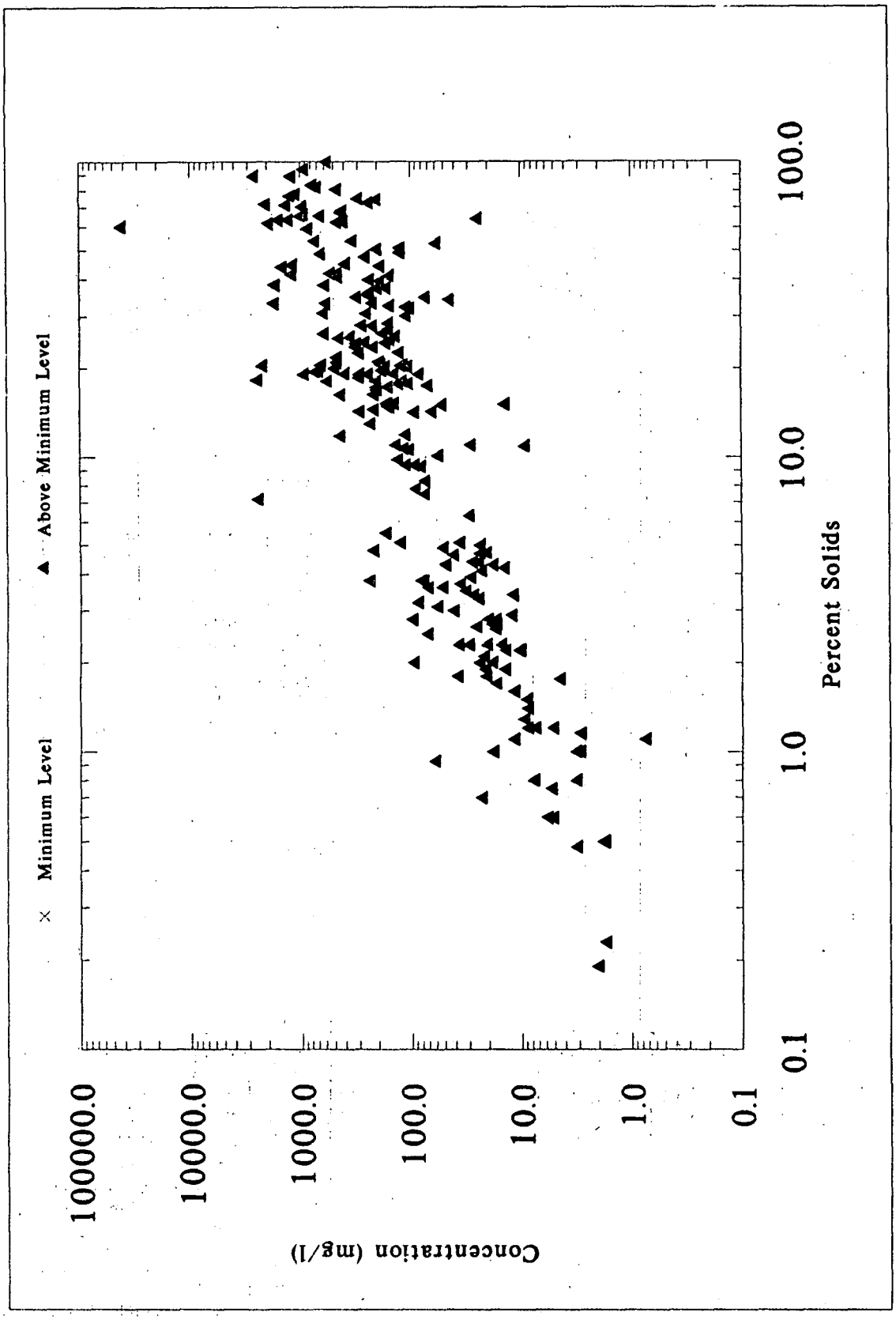

Figure I-2. Percent Solids of NSSS Samples Versus WET WEIGHT Concentrations of ZINC

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For any given analyte, the values recorded under the variable "DETLIMIT" are not constant. A constant value would imply that for all samples a fixed volume or amount was tested, with no dilution of the sample or extract, and that there was no matrix effect or interference. This was not the case. All analytical protocols specified the volume or amount of sludge to be tested. However, when matrix interferences prevented accurate determination of pollutant concentrations, samples were diluted with reagent water and analyzed. The purpose of dilution was to negate matrix effects. However, the minimum level for a diluted sample is raised by the dilution factor. For example, if a sample was diluted by a factor of 10, then the minimum level was raised by a factor of 10. Analytical protocols provided explicit guidance as to the limits of dilution.

Likewise, the reporting of analytical results in units per kilogram also influences the values reported in the data base. As mentioned previously, the percent solids of NSSS samples range from a fraction of 1 percent to 100 percent. Because the dry weight pollutant concentrations and minimum levels are a function of the percent solids in a sample, the range in percent solids is also reflected in reported pollutant concentrations and minimum levels. For example, assuming that there was no dilution of samples and that the same quantity of sludge was tested, the value recorded under "DETLIMIT" for a sample with one percent solids would be ten times higher than that reported for a sample with 10 percent solids. This is because it would take 10 times the quantity of the one percent solids sample to produce the same amount of solids in the 10 percent solids sample. Figure I–3 illustrates the wet weight of mercury for NSSS samples. Mercury concentrations detected above the minimum level are distinguished by the triangle symbol and are defined in the figure key as "Above Minimum Levels." This contrasts the samples not measured above the minimum level which are identified by the symbol "x" and are listed in the figure key as "Minimum Levels." Notice that the majority of "nondetect" samples have 0.10 mg/1 as the minimum level value. The effect of sample percent solids on the dry weight reporting of mercury minimum levels is illustrated by the plot of dry weight mercury concentrations in Figure I–4.

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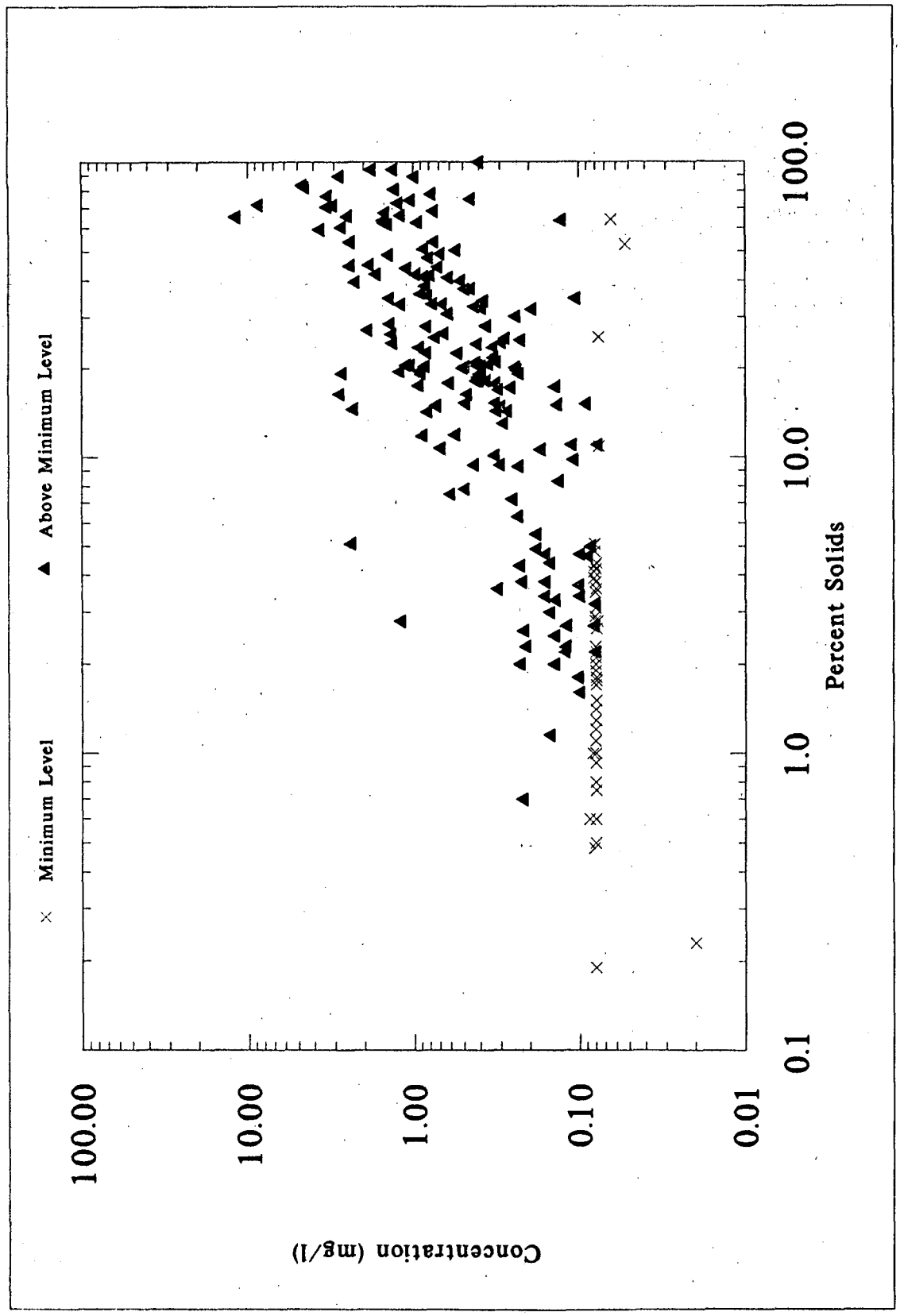

Figure I-3. Percent Solids of NSSS Samples Versus WET WEIGHT Concentrations of MERCURY

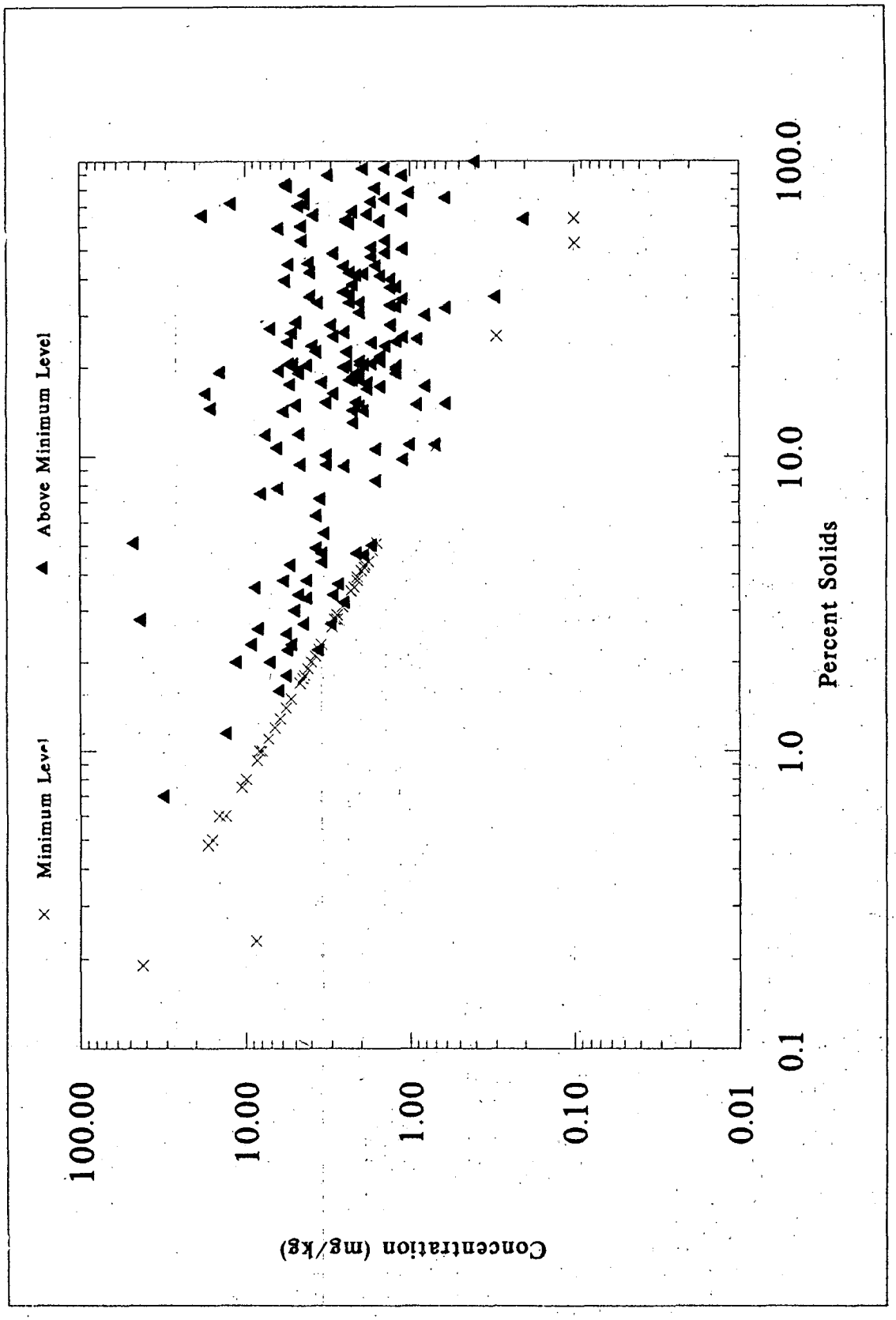

Figure I–4. Percent Solids of NSSS Samples Versus DRY WEIGHT Concentrations of MERCURY

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3. Parameter Estimation with Multiple Censoring Points

When a pollutant is not measured above the minimum level, the data point recording the dry weight minimum level for that sample is considered to be "left censored." Left censoring means that the pollutant concentration in the sample is less than "or to the left of" the minimum level value (i.e., a graphical representation of the data would show the value to the left of the minimum level). When the censoring points or dry weight minimum levels differ because of differences in the sample matrix the data is considered to be multicensored.

Several statistical methods are available for producing national estimates of pollutant concentrations when the data contain multiple censor points. The most commonly applied methods include: (a) Ignoring the censored observations; (b) Setting all censored observations equal to zero; or (c) Setting the censored observation to either the minimum limit of detection or some fraction of the limit of detection. Ignoring censored data will always result in descriptive statistics that overestimate true pollutant concentration values. Setting censored data points to zero will under estimate true pollutant concentration values. Equating censored points to minimum level values will also tend to overestimate pollutant concentrations. Other methods for estimating multicensored data exist but are less frequently used. Generally, these methods consist of "fill-in" and maximum likelihood procedures. "Fill-in" procedures replace censored data points with pollutant concentrations that have been estimated from the measured or non-censored data points. In the maximum likelihood procedures developed by Cohen (See Reference number 1), pollutant concentrations are estimated by maximizing mathematical equations that contain both the data measured above the minimum level and censored data points values.

Eight procedures for calculating descriptive statistics from data with a single censor point value were evaluated by Gilliom and Helsel of the U.S. Geological Survey (USGS) in 1986 (See Reference numbers 2 and 3). These procedures included simple substitution, "fill-in", and maximum likelihood techniques. Monte Carlo experiments with singularly censored data from distributions that mimic the distribution of water quality measures were used to evaluate the accuracy and reliability of the eight methods. Simulations results indicated that simple substitution methods produce biased and highly variable estimates. The maximum likelihood procedure and a probability plotting "fill-in" procedure performed on natural logarithm transformed data produced the lowest errors of estimation. That is, estimated statistics were the closest to the known values. The most reliable estimates of the mean and standard deviation were produced by the probability plotting procedure while the maximum likelihood technique produced the best median and percentile estimates. Application of these techniques to actual water quality data confirmed these conclusions.

In 1988, Helsel and Cohn of USGS (See Reference number 4) extended their study to include multiple censor points. Two approaches to producing estimates were used in this later study. For the first, the maximum value of the multiple censor points was determined and single censor techniques were applied using this maximum value. For the second approach, methods were evaluated using multiple censor points. The methods using mutliple thresholds were shown to be better than the application of single censor methods. Conclusions in the presence of multiple censor points were the same as those drawn from the studies with single censor points. Basically, when log-normality of the distribution of pollutants can be assumed, then the maximum likelihood estimates are desirable. In their 1988 publication, Helsel and Cohn state "When utilized correctly, 'less than' values frequently contain nearly as much information for estimating population moments and quantiles as would the same observation had the detection limit been below them."

Pollutant concentration descriptive statistics for the NSSS were estimated from multicensored data using the maximum likelihood technique. Maximum likelihood estimates were produced assuming that pollutant concentrations were distributed log-normally within each flow rate category. These estimates are presented below in the section—Pollutant Concentration Estimates for the 28 Pollutants of Concern.

4. Pollutant Concentration Estimates for the 28 Pollutants of Concern

The percent of samples from which a pollutant was measured above the minimum level and the estimated mean, standard deviation, and coefficient of variation for the 28 pollutants of concern are listed in Table I–11. Estimates for the individual flow groups as classified for the survey design were generated under the assumption that pollutant concentrations are distributed lognormally. The lognormal distribution generally provides a good approximation to the distribution of pollutant concentrations and is used commonly. Information from samples not measured above the minimum level as well as concentrations that were measured above the "minimum level" were incorporated into the estimates through the maximum likelihood procedure for multiple censor points. As discussed above, this estimation procedure produces "better" estimates than procedures that substitute either zero or the "minimum level" for "nondetect" samples. If none of the samples in a group were measured above the "minimum level", pollutant concentration estimates are listed as non-estimable. In these cases, pollutant concentration estimates from the maximum likelihood procedure were close to zero but unique solutions are not available.

Estimates of national pollutant concentrations are also presented in Table I–11 for those pollutants with estimates for all four flow groups. These descriptive statistics were calculated as a weighted combination of the group estimates. The weights for groups 1 through 4 are as follows:

Flow rate group	Weight
> 100 MGD	0.002
10 < FLOW < 100	.029
1 < FLOW < 10	.170
FLOW < 1	.799

Figures I–5 and I–6 present graphically the estimated national distribution for mercury and zinc. Overlaying each estimated distribution are histograms which show the frequency distribution of the data. The close approximation of the estimated distributions to the detected values in the histograms which show the frequency distribution suggests that the estimation procedure is providing a good approximation to the concentration data from these pollutants. The estimation procedure also appears to be providing good approximations to the concentration data from all other pollutants of concern, except for the PCBs.

TABLE I-11.—POLLUTANT CONCENTRATION ESTIMATES FROM THE NATIONAL SEWAGE SLUDGE SURVEY

Analyte	Unit	Flow group	Number of samples	Percent detect	Mean	Standard deviation	Coefficient of variation (CV)
Aldrin	µg/kg	>100 MGD	26	4	3.57	176.03	49.29
		10<FLOW<=100	61	5	7.36	968.73	131.69
		1<FLOW<=10	69	4	2.60	50.49	19.44
		FLOW <=1	42	2	1.50	57.40	38.14
		National	198	3	1.86	171.63	92.15
Arsenic	µg/kg	>100 MGD	26	77	7.71	5.58	0.72
		10<FLOW<=100	61	85	12.08	17.04	1.41
		1<FLOW<=10	70	83	9.72	10.91	1.12
		FLOW<=1	42	79	9.91	20.24	2.04
		National	199	80	9.93	18.84	1.90
Benzene	µg/kg	>100 MGD	26	8	95.12	12,348.51	129.82
		10<FLOW<=100	61	2	9.74	2.08	0.21
		1<FLOW<=10	70	0			
		FLOW<=1	43	0	.	.	.
		National	200	0	.	.	.
Benzo(A)pyrene	µg/kg	>100 MGD	26	0	.	.	.
		10<FLOW<=100	61	5	.	.	.
		1<FLOW<=10	70	3	217.48	401.15	1.84
		FLOW<=1	43	2	230.51	450.47	1.95
		National	200	3	.	.	.
Beryllium	µg/kg	>100 MGD	26	42	0.52	0.14	0.28
		10<FLOW<=100	61	21	0.37	0.45	1.22
		1<FLOW<=10	70	36	0.48	0.41	0.86
		FLOW<=1	42	19	0.35	0.32	0.90
		National	199	23	0.37	0.34	0.92
Bis(2-Ethylhexyl) Phthalate.	µg/kg	>100 MGD	26	92	297,021.56	2,301,006.97	7.75
		10<FLOW<=100	61	84	163,309.10	474,398.95	2.90
		1<FLOW<=10	70	86	148,606.62	758,645.25	5.11
		FLOW<=1	43	53	55,166.28	550,297.61	9.98
		National	200	62	74,721.17	598,375.57	8.01
Cadmium	mg/kg	>100 MGD	26	92	44.17	75.97	1.72
		10<FLOW<=100	61	93	22.84	44.52	1.95
		1<FLOW<=10	69	78	9.16	10.72	1.17
		FLOW<=1	42	64	5.78	6.84	1.18
		National	198	69	6.94	11.76	1.69
Chlordane	µg/kg	>100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	69	1	22.02	789.48	35.86
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.
Chromium	mg/kg	>100 MGD	26	100	461.41	682.09	1.48
		10<FLOW<=100	61	100	281.40	503.53	1.79
		1<FLOW<=10	70	99	160.57	286.16	1.78
		FLOW<=1	42	88	102.77	338.99	3.30
		National	199	91	118.57	339.16	2.86
Copper	mg/kg	>100 MGD	26	100	783.65	645.52	0.82
		10<FLOW<=100	61	100	746.77	616.35	0.83
		1<FLOW<=10	70	100	670.68	702.50	1.05
		FLOW<=1	42	100	755.86	1,020.48	1.35
		National	199	100	741.20	961.78	1.30
Dieldrin	µg/kg	>100 MGD	26	4	2.24	24.94	11.13
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	69	3	2.70	238.60	88.22
		FLOW<=1	42	5	3.17	86.84	27.42
		National	198	4	.	.	.
Heptachlor	µg/kg	>100 MGD	26	0	.	.	.
		10<FLOW<=100	61	2	2.81	4.67	1.66
		1<FLOW<=10	69	0	.	.	.
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.
Hexachlorobenzene	µg/kg	>100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	70	0	.	.	.
		FLOW<=1	43	0	.	.	.
		National	200	0	.	.	.
Hexachlorobutadiene	µg/kg	>100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	70	0	.	.	.
		FLOW<=1	43	0	.	.	.
		National	200	0	.	.	.
Lead	mg/kg	>100 MGD	26	100	232.22	162.70	0.70
		10<FLOW<=100	61	98	243.38	286.44	1.18

TABLE I-11.—POLLUTANT CONCENTRATION ESTIMATES FROM THE NATIONAL SEWAGE SLUDGE SURVEY—Continued

Analyte	Unit	Flow group	Number of samples	Percent detect	Mean	Standard deviation	Coefficient of variation (CV)
		1<FLOW<=10	70	87	156.99	150.58	0.96
		FLOW<=1	42	76	125.36	201.79	1.61
		National	199	80	134.37	197.79	1.47
Lindane (Gamma-BHC)	µg/kg	>100 MGD	26	0	.	.	.
		10<FLOW<=100	61	2	3.88	454.00	116.98
		1<FLOW<=10	69	1	5.70	3,775.57	662.92
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.
Mercury	mg/kg	>100 MGD	26	88	2.36	1.57	0.67
		10<FLOW<=100	61	85	2.94	2.70	0.92
		1<FLOW<=10	70	79	3.96	3.64	0.92
		FLOW<=1	42	57	5.58	17.30	3.10
		National	199	63	5.22	15.54	2.98
Molybdenum	mg/kg	>100 MGD	26	69	8.08	6.10	0.76
		10<FLOW<=100	61	77	12.98	17.18	1.32
		1<FLOW<=10	70	66	10.31	11.05	1.07
		FLOW<=1	42	48	8.89	17.54	1.97
		National	199	53	9.24	16.58	1.79
N-Nitrosodimethylamine	µg/kg	>100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	70	0	.	.	.
		FLOW<=1	43	0	.	.	.
		National	200	0	.	.	.
Nickel	mg/kg	>100 MGD	26	96	90.30	113.19	1.25
		10<FLOW<=100	61	97	81.96	108.17	1.32
		1<FLOW<=10	70	81	48.36	49.23	1.02
		FLOW<=1	42	60	39.90	101.25	2.54
		National	199	66	42.66	94.83	2.22
PCB-1016	µg/kg	> 100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	69	0	.	.	.
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.
PCB-1221	µg/kg	> 100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	69	0	.	.	.
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.
PCB-1232	µg/kg	> 100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	69	0	.	.	.
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.
PCB-1242	µg/kg	> 100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	69	0	.	.	.
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.
PCB-1248[A]	µg/kg	> 100 MGD	26	12	106.23	437.69	4.12
		10<FLOW<=100	61	10	223.39	8,123.00	36.36
		1<FLOW<=10	69	12	153.20	1,926.23	12.57
		FLOW<=1	42	10	64.66	225.89	3.49
		National	198	10	84.34	1,586.26	18.81
PCB-1254[A]	µg/kg	> 100 MGD	26	8	2,463.55	8,291,321.77	3,365.59
		10<FLOW<=100	61	2	44.25	13,571.51	306.70
		1<FLOW<=10	69	4	132.67	23,218.15	175.01
		FLOW<=1	42	10	148,576.26	91,326,544,085.38	614,677.89
		National	198	8	118,762.55	81,514,762,398.43	686,367.54
PCB-1260[A]	µg/kg	> 100 MGD	26	15	182.89	1,202.71	6.58
		10<FLOW<=100	61	8	72.47	221.76	3.06
		1<FLOW<=10	69	9	112.43	1,629.78	14.50
		FLOW<=1	42	10	178.59	7,071.84	39.60
		National	198	9	164.33	6,347.69	38.63
Selenium	mg/kg	> 100 MGD	26	62	5.21	7.29	1.40
		10<FLOW<=100	61	82	5.21	5.08	0.97
		1<FLOW<=10	70	64	5.59	5.98	1.07
		FLOW<=1	42	64	5.07	7.68	1.51
		National	199	65	5.16	7.34	1.42
Toxaphene	µg/kg	> 100 MGD	26	0	.	.	.
		10<FLOW<=100	61	0	.	.	.
		1<FLOW<=10	69	0	.	.	.
		FLOW<=1	42	0	.	.	.
		National	198	0	.	.	.

TABLE I-11.—POLLUTANT CONCENTRATION ESTIMATES FROM THE NATIONAL SEWAGE SLUDGE SURVEY—Continued

Analyte	Unit	Flow group	Number of samples	Percent detect	Mean	Standard deviation	Coefficient of variation (CV)
Trichloroethene	µg/kg	> 100 MGD	26	4	8.18	8.36	1.02
		10<FLOW<=100	61	5	59.42	6,947.10	116.92
		1<FLOW<=10	70	4	·	·	·
		FLOW<=1	43	0	·	·	·
		National	200	1	·	·	·
Zinc	mg/kg	> 100 MGD	26	100	1,400.63	981.31	0.70
		10<FLOW<=100	61	100	1,584.87	1,599.72	1.01
		1<FLOW<=10	70	100	1,707.99	2,346.10	1.37
		FLOW<=1	42	100	1,080.02	1,306.42	1.21
		National	199	100	1,201.88	1,554.42	1.29
4,4'-DDD	µg/kg	> 100 MGD	26	4	61.75	44.76	0.72
		10<FLOW<=100	61	0	·	·	·
		1<FLOW<=10	69	0	·	·	·
		FLOW<=1	42	0	·	·	·
		National	198	0	·	·	·
4,4'-DDE	µg/kg	> 100 MGD	26	4	55.63	30.93	0.56
		10<FLOW<=100	61	2	51.50	23.50	0.46
		1<FLOW<=10	69	3	65.03	59.61	0.92
		FLOW<=1	42	0	·	·	·
		National	198	1	·	·	·
4,4'-DDT	µg/kg	> 100 MGD	26	12	22.49	12.25	0.54
		10<FLOW<=100	61	3	22.82	13.78	0.60
		1<FLOW<=10	69	1	25.43	23.05	0.91
		FLOW<=1	42	2	30.22	36.37	1.20
		National	198	2	29.18	33.96	1.16

· = Nonestimable.
* = National Estimates Determined as Weighted Sums of Stratum Estimates.
CV = Standard Deviation Divided by the Mean.
Δ = PCB concentrations, although not detected frequently, indicate a violation of the Lognormal Distribution assumption used to generate estimates. Therefore, estimates are not considered realistic.

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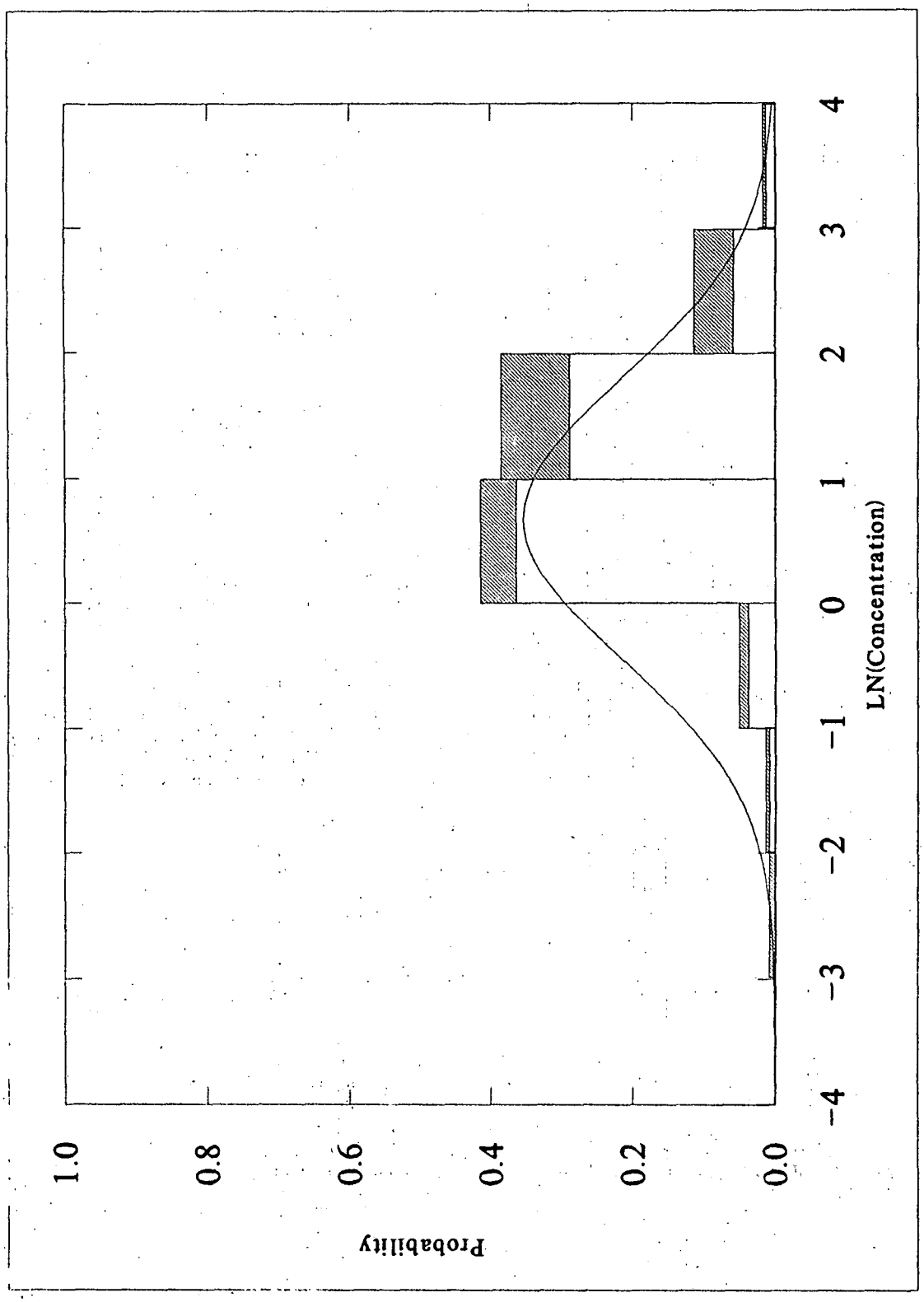

Figure I-5. Histogram of Detects (▢) and Nondetects (▨) Versus Estimated National Pollutant Concentration Distribution of MERCURY

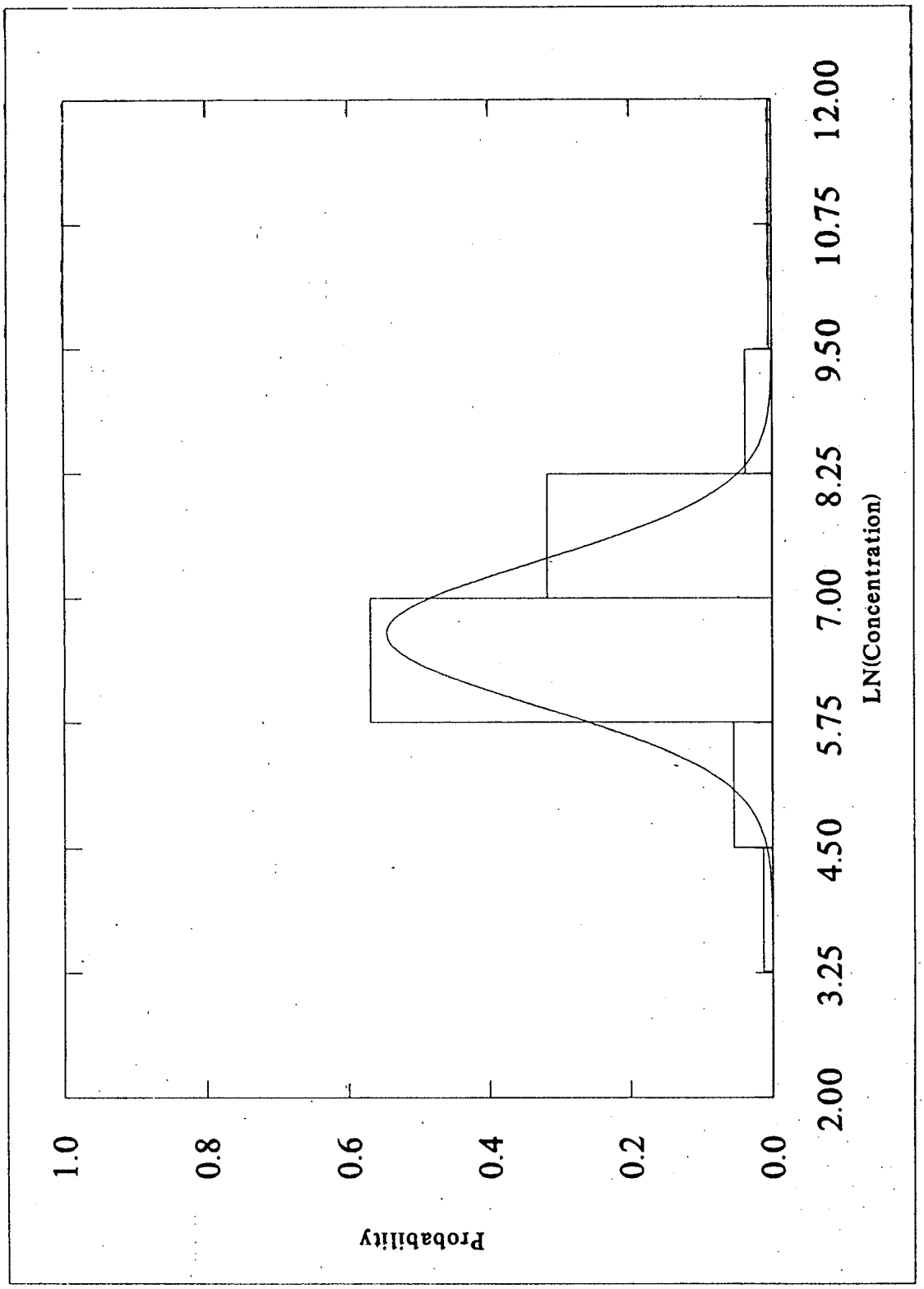

Figure I-6. Histogram of Detects ( ) and Nondetects ( ) Versus Estimated National Pollutant Concentration Distribution of ZINC

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5. Polychlorinated Biphenyls (PCB) Concentration Estimates

Sludge samples in the National Sewage Sludge Survey were analyzed for seven PCB congeners. There were no detectable levels of PCB 1016, 1221, 1232, or 1242 in any of the 198 tested samples. The remaining congeners, PCB 1248, 1254, and 1260 were detected above the minimum level in about 10 percent of the sludge samples. Pollutant concentration estimates for these three congeners were produced under the assumption that the PCBs are distributed lognormally. However, both the data and resulting estimates suggest that this assumption is not appropriated.

As mentioned in previous sections, sludge samples in the NSSS ranged from less than one percent solids to approximately 100 percent solids. Additionally, pollutant concentration measurements and minimum levels (i.e., "detection limits") were reported in dry weight units. Plots of sample concentrations against the percent solids for PCB 1248, 1254, and 1260 are presented in Figures I–7 through I–9, respectively. PCB concentrations detected above the minimum level are distinguished by the triangle symbol and are defined in the legend as "Above Minimum Level." Samples not measured above the minimum level are defined as "Minimum Level" are identified by the symbol "x."

Notice that PCB concentrations were measured above the minimum level only in sludge samples with higher percent solids. Of the 24 samples from which PCB–1248 was measured above the minimum level, 23 had solids content in excess of 30 percent. The remaining sample contained 28 percent solids. Eleven of the 12 samples in which PCB–1254 was detected were in excess of 30 percent solids. Likewise, 19 of the 20 samples in which PCB–1260 was detected were in excess of 30 percent solids. None of the other pollutants of concern displayed this pattern of detections only in higher percent solids samples.

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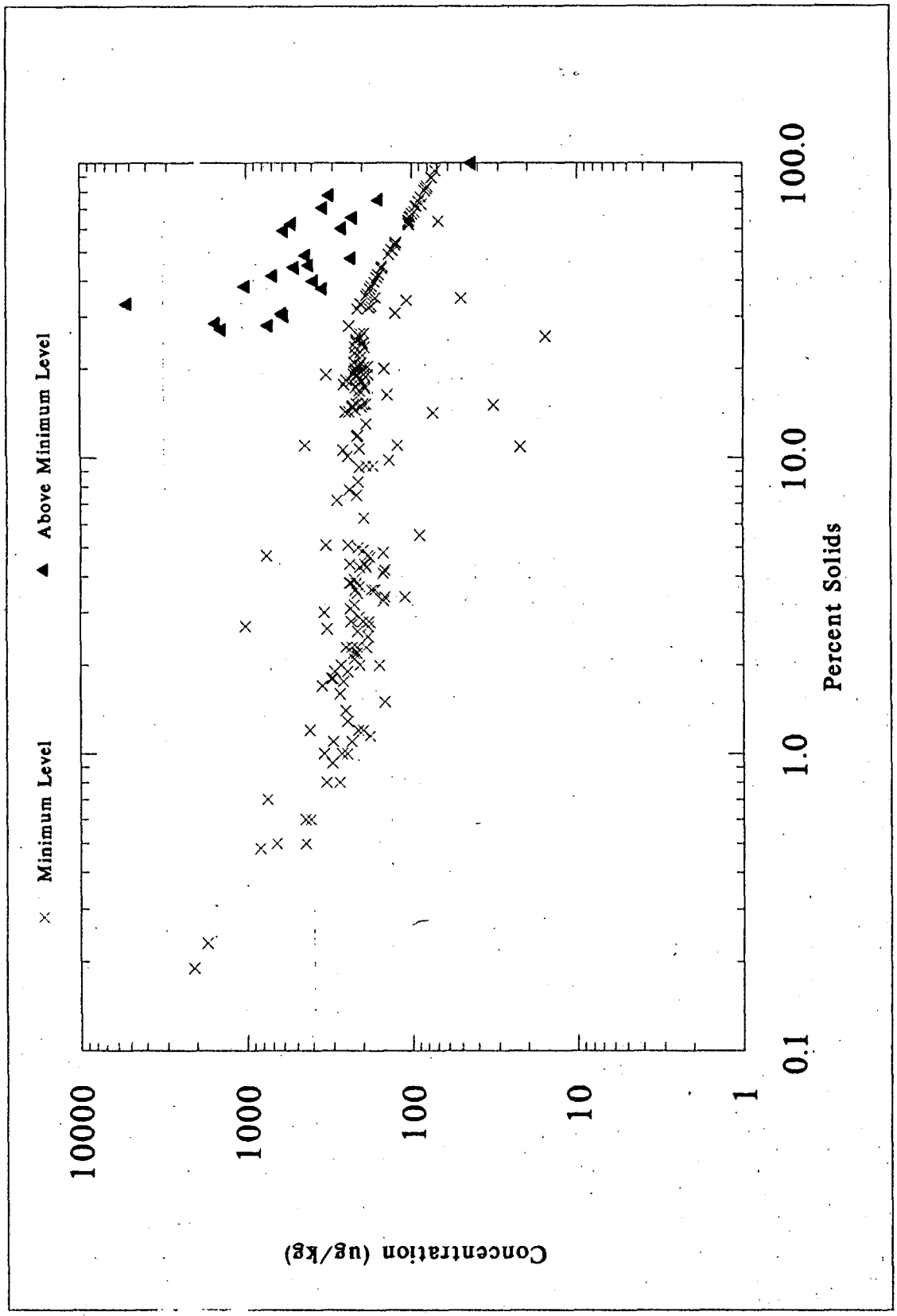

Figure I-7. Percent Solids of NSSS Samples Versus DRY WEIGHT Concentrations of PCB-1248

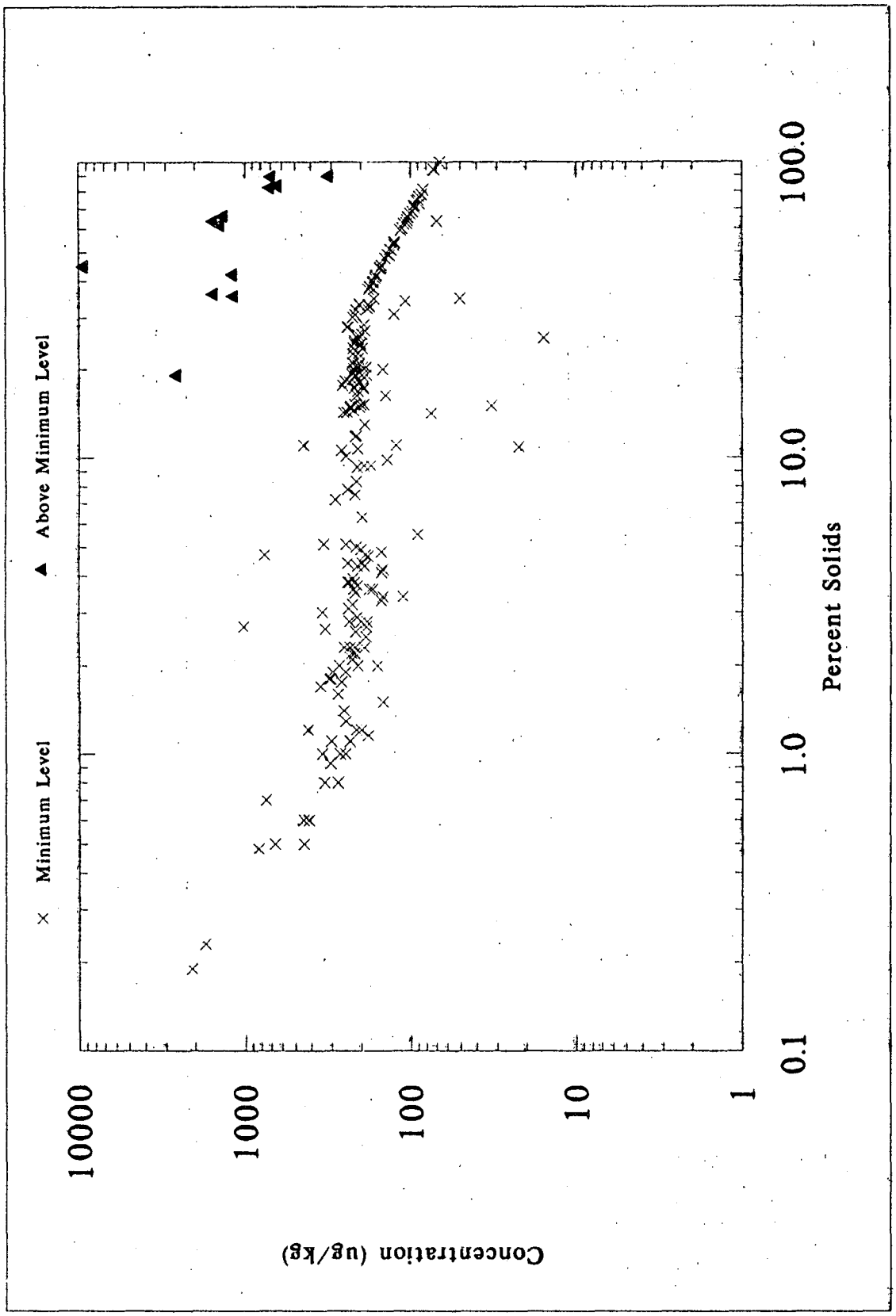

Figure I-8. Percent Solids of NSSS Samples Versus DRY WEIGHT Concentrations of PCB-1254

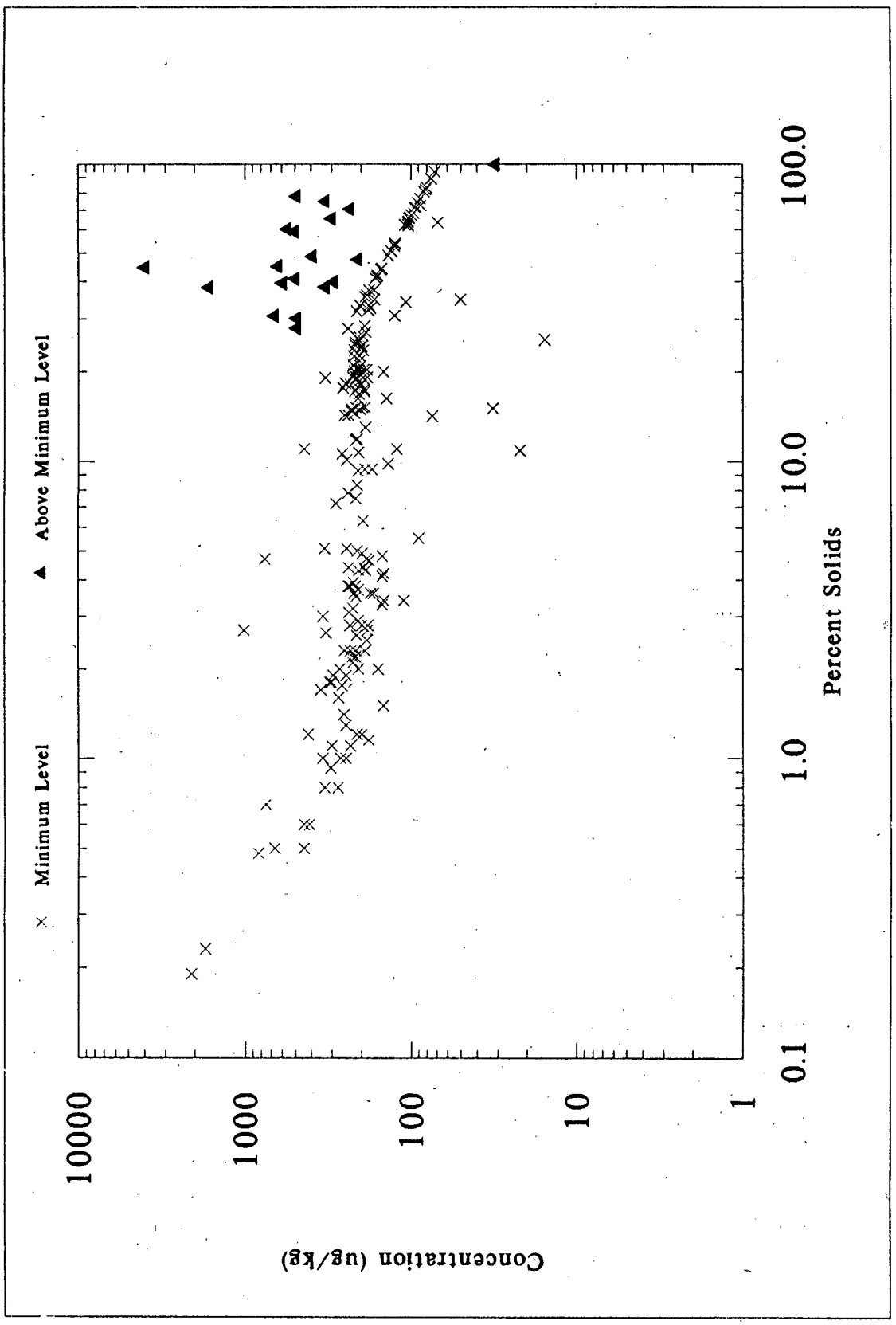

Figure I-9. Percent Solids of NSSS Samples Versus DRY WEIGHT Concentrations of PCB-1260

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The Agency is offering a possible explanation for this set of observations. PCBs, especially the higher molecular weight, higher chlorinated mixtures such as PCBs 1248, 1254 and 1260 are extremely hydrophobic. Because of their very low water solubility, they tend to strongly partition through adsorption to solid particle surfaces. Sludges with a high solids content as they are being produced would, therefore, tend to have these PCBs preferentially migrate to solid particle surfaces in roughly the same order of increasing solids content of the whole sludge as the sludge is being produced in wastewater treatment processes.

The unexpectedly large concentration estimates for PCB–1254 also leads to questions concerning the distribution of PCBs in general. Pollutant concentration estimates produced under the assumption of log-normality are generated form functions of the mean and variance of pollutant concentration estimated from natural log transformed data. Therefore, a large variation in pollutant concentration data yields large estimates. Referring to Figure I–8, notice that PCB–1254 concentrations that were measured above the minimum level are generally much larger than the minimum level concentrations reported for samples from which PCB–1254 was not measured. This large variation is more apparent when Figure I–8 is viewed with reference to the other two PCB congener plots (Figures I–7 and I–9).

The Agency is offering a possible explanation for this observation. The elevated detected values for PCB–1254 can be explained by two factors. First, production and use data of Aroclor 1254 indicates that over the years, the largest environmental loadings are from Aroclor 1254. Second, higher molecular weight, higher chlorinated PCB mixtures like 1254 have a greater environmental and treatment process persistence than do lower molecular weight PCB mixtures.

6. Parallel Listing of Pollutant Concentration Estimates From the NSSS and Estimates Used During Proposal

This section will illustrate the change from the proposal to today's notice for Agency estimates of pollutant concentrations in processed sludge. As was stated in the overview, the Agency did not believe at the time of propsal and does not believe now that the concentration estimates used during proposal are of sufficient quality to support the development of the final Part 503 regulations. Some of the problems with the previous estimates, from the "40 City Study", include:

A. Many samples analyzed were not from final processed sludge.

B. The statistical relationship between the facilities studied and all facilities in the nation is not estimatable.

C. The information is over ten years old and since then industrial and industrial wastewater treatment processes have changed.

D. Chemical analytical techniques have improved since the study was conducted.

E. "Detection limits" were not reported in a consistent fashion and some of these values have been used as observed concentrations when estimates were made.

On the other hand, pollutant concentrations from the National Sewage Sludge Survey are national estimates from the results of measurement processes specifically developed for this purpose that have been used on recently acquired sampled of sludges that are the product of secondary or better treatment.

In general, adoption of the current pollutant concentration estimates from the NSSS will make broad changes in previous Agency estimates. Concentrations of heavy metals like cadmium, chromium, lead, and nickel will be lower. In particular, lead concentrations in sludge will be approximately 60 percent lower than previously predicted. Other metals with lower concentrations than predicted during proposal include zinc, beryllium, and mercury. Concentrations of organic pollutants do not change in a systematic fashion. However, it appears that the current levels of chlorinated pollutants in sludge are "low." The parallel listing in Table I–12 shows the corrections made to Agency estimates of pollutant concentrations since the proposal.

TABLE I–12.—POLLUTANT CONCENTRATION DESCRIPTIVE STATISTICS FROM THE 1988 NATIONAL SEWAGE SLUDGE SURVEY AND THE 1980 40 CITY STUDY

Note: These listings are provided strictly for information purposes. Due to substantial differences between the two studies, data are not technically comparable.*

Analyte (unit)	Study	Samples	Percent detection	Mean	Standard deviation	Coefficient of variation (CV)
Aldrin	NSSS	198	3	1.9	171.6	92.2
(μg/kg)	40 City	43	16	6.4	16.6	2.59
Arsenic	NSSS	199	80	9.9	18.8	1.9
(mg/kg)	40 City	45	100	6.7	6.59	0.98
Benzene	NSSS	200	0	.	.	.
(μg/kg)	40 City	43	93	1,782	4,273	2.40
Benzo(A)pyrene	NSSS	200	3	.	.	.
(μg/kg)	40 City	43	21	138	471.7	3.42
Beryllium	NSSS	199	23	0.37	0.34	0.92
(mg/kg)	40 City	45	100	1.63	2.10	1.29
Bis(2-ethylhexyl)-	NSSS	200	62	74,721	598,376	8.01
phthalate (μg/kg)	40 City	43	100	155,585	157,443	1.01
Cadmium	NSSS	198	69	6.94	11.8	1.69
(mg/kg)	40 City	45	100	69.0	252	3.65
Chlordane	NSSS	198	0	.	.	.
(μg/kg)	40 City	43	16	6.4	16.6	2.59
Chromium	NSSS	199	91	119	339.2	2.86
(mg/kg)	40 City	45	100	429	440.8	1.03
Copper	NSSS	199	100	741	961.8	1.30
(mg/kg)	40 City	45	100	602	528.8	0.88
Dieldrin	NSSS	198	4	.	.	.
(μg/kg)	40 City	43	16	6.4	16.6	2.59

TABLE I-12.—POLLUTANT CONCENTRATION DESCRIPTIVE STATISTICS FROM THE 1988 NATIONAL SEWAGE SLUDGE SURVEY AND THE 1980 40 CITY STUDY—Continued

Note: These listings are provided strictly for information purposes. Due to substantial differences between the two studies, data are not technically comparable.*

Analyte (unit)	Study	Samples	Percent detection	Mean	Standard deviation	Coefficient of variation (CV)
Heptachlor	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
Hexachlorobenzene	NSSS	200	0	.	.	.
(µg/kg)	40 City	43	16	155	492	3.17
Hexachlorobutadiene	NSSS	200	0	.	.	.
(µg/kg)	40 City	43	5	23	106	4.60
Lead	NSSS	199	80	134.4	197.8	1.47
(mg/kg)	40 City	45	100	369.0	331.5	0.90
Lindane (Gamma-BBC)	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
Mercury	NSSS	199	63	5.2	15.5	2.98
(mg/kg)	40 City	45	100	2.8	2.6	0.93
Molybdenum	NSSS	199	53	9.2	16.6	1.79
(mg/kg)	40 City	4	75	17.7	16.7	0.94
N-Nitrosodimethylamine	NSSS	200	0	.	.	.
(µg/kg)	40 City	43	5	57	265	4.65
Nickel	NSSS	199	66	42.7	94.8	2.22
(mg/kg)	40 City	45	100	135.1	169.1	1.25
PCB-1016	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
PCB-1221	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
PCB-1232	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
PCB-1242	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
PCB-1248[Δ]	NSSS	198	10	84.3	1,586.3	18.8
(µg/kg)	40 City	43	16	6.4	16.6	2.59
PCB-1254[Δ]	NSSS	198	8	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
PCB-1260[Δ]	NSSS	198	9	164.3	6,348	38.6
(µg/kg)	40 City	43	16	6.4	16.6	2.59
Selenium	NSSS	199	65	5.2	7.3	1.42
(mg/kg)	40 City	45	100	7.3	29.10	4.16
Toxaphene	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
Trichloroethene	NSSS	200	1	.	.	.
(µg/kg)	40 City	43	84	8,139	30,685	3.77
Zinc	NSSS	199	100	1,202	1,554.4	1.29
(mg/kg)	40 City	45	100	1,594	1,759.3	1.10
4'4'-DDD	NSSS	198	0	.	.	.
(µg/kg)	40 City	43	16	6.4	16.6	2.59
4'4'-DDE	NSSS	198	1	.	.	.
(µg/kg)	40 City	43	19	7.3	17.4	2.38
4'4'-DDT	NSSS	196	2	29.2	34.0	1.16
(µg/kg)	40 City	43	16	6.4	16.6	2.59

KEY:
. = Nonestimable.
CV = Standard Deviation Divided by the Mean.

*The Following Differences Between the 2 Studies Strongly Influence Results:

(1) Sample Sites:
NSS—After Final Processing
40 City—During Treatment Process.

(2) Time Frame:
NSSS—1989
40 city—1979 to 1980.

(3) Distributional Assumptions:
NSSS—Lognormal
40 City—Nonparametric.

(4) Concentrations Below Minimum Level:
NSSS—Values Incorporated Into the Maximum Liklihood Equations
40 City—Set to Zero or Method Detection Limit.

[Δ] = PCB Concentrations, Although Not Detected Frequently, Indicate a Violation of the Lognormal Distribution Assumption Used to Generate Estimates. Therefore, Estimates are not Considered Realistic.

The descriptive statistics produced from the NSSS, for pollutants other than PCBs, appears to be appropriate and essentially unbiased estimates of the current quality of sludge for several reasons. First, POTWs were selected from all secondary treatment facilities identified by the 1986 Needs Survey. The 1986 Needs Survey was the most complete listing of POTWs available at the time the National Sewage Sludge Survey was designed. Secondly, facilities were included in the NSSS in such a way that all POTWs in a flow rate design group were equally likely to have been selected. Also, analytical protocols used to measure the concentration of pollutants in NSSS samples were specifically adapted for the sludge matrix. Finally, the method used to incorporate information from samples that were not above the "detection limit" reduces the bias induced by more commonly used estimation procedures.

Request for Comments on the Numerical Results of the Survey

The Agency is requesting comments and information on improved methodologies in relation to the numerical results of the Survey. In particular, the Agency is requesting comment and information on the estimation of pollutant concentration in the presence of multiple "detection limits."

The lognormal distribution is commonly used and is generally accepted for modeling pollutant concentrations. The Agency requests comments and suggestions on improving the quality of the estimates generated from NSSS data using the Maximum Likelihood Procedure for Multiple Censor Points. In particular, how should the Agency estimate pollutant concentrations when that pollutant is not detected in all of the flow groups established during the survey design?

Additionally, PCBs do not appear to fit the lognormal distribution. The Agency requests comment on what would be an appropriate methodology for producing national estimates of PCB concentrations.

Part II: New Issues and Revised Approaches

Revised Approach for Regulating Domestic Septage (Subpart A)

Under the proposed part 503 rule, EPA would regulate septage (septic tank pumpings) that is pumped and collected for use or disposal in the same manner as municipal wastewater sewage sludge. Septage has very similar properties to sewage sludge and may contain the same types of pollutants and pathogenic organisms (although at lower concentrations). Because of these similarities, the Agency believes that septage, like sewage sludge, has the potential to adversely impact public health and the environment. It is for this reason that EPA decided to regulate septage under the proposed part 503 rule.

Under the approach proposed in February, 1989, the same numerical pollutant limits and management practices applicable to sewage sludge would also apply to septage. Although there does not exist a comprehensive national data base on septage quality, EPA believes that concentrations of inorganic and organic pollutants in septage should be significantly lower than concentrations of these pollutants in sewage sludge because of the septage's predominately domestic sewage nature and the lack of significant industrial wastewater contribution to it. Because septage quality should be better than sewage sludge quality, it should prove easier for septage than for sewage sludge to comply with quality requirements of the part 503 rule.

In the proposal, EPA solicited comments on its decision to regulate septage in the same manner as sewage sludge and asked for suggested alternative approaches. Many comments were received from small communities and septage pumpers and haulers disagreeing with the Agency's proposed approach. They argued that applying the proposed regulations for sewage sludge from POTWs to domestic septage collected from private homes was over stringent, burdensome, and would have little or no environmental benefit. They were particularly concerned about the proposed requirements for pathogen and vector attraction reduction, and the frequency of monitoring pollutants, record keeping and reporting.

Under the proposal, septage is required to be analyzed to determine the amount and presence of inorganic and organic pollutants covered by the regulations. This information is required to allow the septage pumper or hauler to determine the appropriate use or disposal practice. If, as is generally the case, septage is to be applied to agricultural or nonagricultural land, pollutant concentration data would be needed to determine the allowable pollutant application rate or maximum pollutant concentrations for applying the septage to the land. Many of the commenters felt that regardless of whether septage is used beneficially on agricultural or non-agricultural land or disposed of in some other manner, the cost of monitoring, record keeping, and reporting is excessive when considering that most septage collection vehicles usually collect septage from only two homes prior to use or disposal.

EPA recognizes that the septage pumping, hauling, and disposal industry has significantly different characteristics from publicly owned treatment works. As a result, EPA has decided to re-examine the requirements for domestic septage when it is applied to agricultural and non-agricultural land. A description of the proposed numerical pollutant limitations and management requirements for septage (regulated under the part 503 proposal as sewage sludge) that is applied to agricultural and non-agricultural land is found at 54 FR 5796–5807, 5878–5880, 5894–5895.

Comments on the Proposed Rule

The Agency received over 130 comments concerning the proposed treatment of septage. A majority of the respondents opposed the regulation of septage as sewage sludge. Commenters indicated the proposed regulations were too costly to implement and would have a negative effect on the environment. The regulations, if adopted as proposed, could eliminate the land application of septage or could cause illegal or reduced pumping of septage systems by homeowners or illegal dumping. In addition, the Agency received limited information on septage quality and industry practices.

Discussion

Because of the comments and information we received on the proposal, the Agency began evaluating alternative regulatory strategies that would similarly protect public health and the environment but were less complex and easier to implement.

The Agency recognizes that several factors must be taken into account when regulating septage. Most septage collection businesses are small operations, usually three or fewer trucks. Each truck generally has a storage capacity of about 2000 gallons which will contain the wastewater from, at most, two typical home septic tanks. Under these circumstances, it is readily apparent how difficult it would be to require sampling and testing of septage for organics, metals and nitrogen, and then regulate land application based on septage quality. Such an approach appears particularly difficult for small and marginal businesses in the septage service industry.

While the Agency believes domestic septage has many of the same chemical and biological constituents as sewage

sludge, septage presents less of a risk to public health and the environment because these constituents are found at very low concentrations. Presently, a number of States and local governments regulate land application of septage by controlling the amount of septage that may be applied on a gallons per acre per year basis—a hydraulic loading rate approach.

The use of a hydraulic loading rate is an attractive alternative for small volumes of septage with low levels of pollutants. Such a regulatory approach is easily understood and implemented by small communities and septage pumpers and haulers. Moreover, it does not require specific testing of septage loads and land application based on the analysis of septage quality. This approach also lends itself to a simple record keeping system. Regulatory agencies would merely check the haulers' records which would indicate the gallons of septage hauled to a specific site.

In order to validate the hydraulic loading rate approach, the Agency, using data on septage quality and the typical amount of nitrogen a crop needs during growth, compared a calculated reasonable hydraulic loading to safe pollutant limits for inorganics, organics and nitrogen found in septage. The first step was to calculate a reasonable hydraulic loading rate. Based on a total nitrogen content for domestic septage of 700 milligrams per liter (a reasonable value representing high nitrogen-content septage) and a crop uptake rate of 175 pounds of nitrogen per acre per year, a maximum septage application rate of 30,000 gallons per acre per year was calculated. The crop uptake rate of 175 pounds of nitrogen per acre per year is considered reasonable since all but a few crops would need this amount of nitrogen to satisfy their growth requirements, and not all of the nitrogen would be immediately bioavailable because some of it is organic nitrogen that is released slowly over a period of two or three years.

To verify that a hydraulic loading rate of 30,000 gallons per acre per year for domestic septage protects public health and the environment, the Agency reviewed the inorganic and organic pollutant content of septage from limited data provided by the State of Wisconsin's Department of Natural Resources and from an EPA draft report containing information on septage quality (see Reference number 5). Using this information, the Agency calculated the annual organic and cumulative inorganic pollutant loads for each pollutant in septage and compared them to the annual organic and cumulative inorganic pollutant loading rates developed for land application in the proposed part 503 regulations.

For inorganic pollutants found in septage, the Agency has tentatively determined that septage could be applied safely to a typical land application site for approximately 40 years and that the limiting inorganic pollutant restricting site-life was copper. The Agency believes the 30,000 gallons per acre per year hydraulic loading rate is reasonable for inorganic pollutants because it would not exceed the safe cumulative inorganic pollutant loads in the proposed part 503 regulations for at least 40 years and because the Agency does not believe that 30,000 gallons of domestic septage will be applied each year to the same site over a 40-year period.

There was little available data on organic pollutants and their concentrations in septage. However, by making reasonable worst-case assumptions based on analytical detection limits for organic pollutants found in sewage sludge and on limited data available on domestic septage quality, the Agency determined that the annual organic pollutant loading would not violate the safe annual organic pollutant limits identified in the Part 503 proposal. Therefore, the Agency has tentatively concluded that the land application of domestic septage is safe with respect to organic pollutants if the annual hydraulic loading rate is limited to 30,000 gallons per acre per year.

Finally, septage contains pathogens and is capable of attracting vectors when untreated septage is surface applied to the land. Based on a university study (Ronner, A.B., Cliver, D.O. 1987. "Disinfection of Viruses in Septic Tank and Holding Tank Waste by Calcium Hydroxide." University of Wisconsin, Madison) and on several States' experience with lime stabilized septage, the Agency believes that raising the pH of septage with lime to 12 or above for 30 minutes stabilizes septage and exceeds the minimum pathogen reduction requirements for a Class B sewage sludge described in the part 503 proposal. In addition, the Agency believes (based on States' experience) that the vector attraction reduction requirement for septage is also satisfied by lime stabilization because odors are drastically reduced. The Agency requests comments, information and data on the use of lime stabilization of septage to reduce pathogens and vector attraction.

Revised Approach for the Final Part 503 Rule

The Agency, after reviewing the public comments, decided that the proposed regulations as applied to septage could be exceedingly difficult to implement and therefore unlikely to obtain the public health and environmental statutory objectives. As a result, the Agency is considering revising its approach for regulating domestic septage applied to land for inclusion in the final part 503 rule. It is the Agency's belief that the revised approach will be less burdensome but still protect public health and the environment. The requirements being considered today apply only to *domestic* septage and not to sewage sludge. These requirements also do not apply to domestic septage that is comingled with industrial or commercial wastewaters, sludges or greases. The requirements for the revised approach are as follows:

1. *Septage Land Application Rate Limit*—The rate of septage applied to land would be limited to a hydraulic loading rate of 30,000 gallons per acre per year. By limiting the hydraulic loading of septage, the Agency has tentatively determined that the annual and cumulative pollutant loading rate to the site will be protective of public health and the environment. In addition, the amount of nitrogen present in septage applied at this rate should satisfy nitrogen demands for growing crops and not adversely impact surface or ground waters.

2. *Pathogen and Vector Attraction Reduction*—Short term lime stabilization would be required to reduce pathogens and vector attraction prior to land application. Short term lime stabilization would be accomplished by raising the pH of septage to 12 or greater for 30 minutes. The Agency believes that raising the pH of septage reduces pathogens, indicator organisms and vector attraction and thereby decreases the risk of disease to the public.

3. *Crop Restrictions*—When septage is applied to agricultural land, the Agency has tentatively determined that a nitrogen consuming crop must be grown and harvested to protect surface and ground waters from nitrogen pollution impacts. In addition, the planting of crops whose edible portions may contact the surface soil, and of root crops grow in the soil would be prohibited after septage application for one and two years, respectively. The Agency has found that short term lime stabilization does not sterilize the septage but does significantly reduce the

number of pathogens and indicator organisms. The one and two year planting delay would allow further die-off of these organisms from exposure to sunlight and frequent drying to levels the Agency believes is protective of public health.

4. *Use and Access Restrictions*—Access to sites where the potential for public exposure is high (e.g., parks and recreational areas) would be restricted for 12 months after application of domestic septage to those sites. This is the same period in the current Criteria for Classification of Solid Waste Disposal Facilities (40 CFR part 257) for septage that is applied to the land if the septage is not treated in a Process to Significantly Reduce Pathogens. The main purpose of the 12 month restriction is to protect children who may ingest septage-amended soil while playing in the areas where domestic septage is applied. The Agency believes that the 12 month period is reasonable based on pathogen die-off information for septage-amended soil. However, the Agency is concerned that such a restriction for certain parks and recreational areas may be unreasonable and preclude the use of septage in sites with a high potential for exposure. The Agency invites public comment on the reasonableness of the 12 month public access restriction for sites with a high potential for exposure.

For agricultural and non-agricultural lands where the potential for exposure to the septage-soil mixture is low, the access restriction would vary depending on whether the public is informed. Access for the uninformed public to low exposure areas would be limited for 90 days. The access restriction for the informed public would be 30 days. An example of when the public is informed is when signs are posted that indicate that domestic septage has been applied to a site.

EPA believes that the use of different time periods for access restrictions is appropriate because those time periods reflect the potential for different exposures. The Agency also believes, based on available information, that the different time periods help protect the public from reasonably anticipated adverse effects of pathogens in domestic septage. The Agency invites public comment and supporting data on whether or not an "informed" public requires a 30 day access restriction to allow for pathogen die-off, or is such restriction unnecessary and over-burdensome.

5. *Run-off and Infiltration Controls*—Surface land application of septage would be applied at a rate that would not result in septage run-off from the application site. In addition, septage application would be prohibited on sites which do not have adequate depth to ground water. The Agency believes that controlling depth to ground water and the method of septage application at the site can substantially reduce surface and ground water impacts from septage run-off and infiltration. The Agency invites public comment on defining what an "adequate" depth to ground water should be for surface land application of septage.

6. *Other Requirements*—The Agency is considering retaining the following requirements from the February 6, 1989, part 503 proposal: (1) The land application of septage must not cause or contribute to the harm of any threatened or endangered species of plant, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of a threatened or endangered species; and (2) septage should not be applied to frozen, snow-covered, or flooded land, unless it can be demonstrated that the application will not cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the CWA.

Request for Comments

The revised approach that is being considered today is to regulate the land application of *domestic* septage using a maximum hydraulic loading rate and other minimal management practices. In addition, pathogen and vector attraction reduction would be accomplished through lime stabilization. The Agency is requesting information and data on septage quality and public comments on the revised approach, its assumptions, requirements, protectiveness and implementability, and its anticipated impact on septage regulatory programs, small communities, and the septage industry.

The Agency is also inviting comments on limiting the revised approach to *domestic* septage only, and on what additional requirements would be needed if septage were co-mingled with industrial or commercial wastewater, sludges, or greases. For example, should septage co-mingled with commercial sludges be regulated under the requirements for normal land application. In addition, the Agency is requesting public comment on including portable toilet pumpings and Type III marine sanitation device pumpings in the definition of domestic septage. Limited information is available on the reduction of pathogens and vector attraction of portable toilet pumpings and Type III marine sanitation device pumpings using lime stabilization. EPA requests information on pathogen and vector attraction reduction for portable toilet pumpings and Type III marine sanitation device pumpings. In particular, the Agency requests information on the impact that materials (e.g., formaldehyde, quaternary ammonium compounds, and glutaraldehyde compounds) used to disinfect and deodorize the pumpings have on pathogens and vector attraction reduction. EPA also would like to receive information on the environmental impact these materials have on land where the pumpings are applied.

Revised Approach for Regulating Organic Emissions From Incinerators (Subpart B)

In the February 6, 1989 part 503 proposal, the Agency proposed site-specific numerical limits for total hydrocarbons (THCs) to achieve a desired risk level associated with organic emissions and required continuous monitoring of THC as the mechanism for controlling toxic organic emissions from sewage sludge incinerators. EPA proposed to use total hydrocarbons as a surrogate for all organic pollutants emitted from sludge incinerators in determining an allowable organic emission rate. Using air quality models, EPA determined the allowable emission rates for organic and inorganic pollutants that would impose undue risks to the most exposed individual in the vicinity of the incinerator. For all organic pollutants, the allowable emission rate determined by modeling is the numerical limit for total hydrocarbons.

EPA received a significant number of comments from scientific peer review experts and the public critical of certain aspects of the THC approach and its scientific basis for controlling organic pollutants. These comments focused on the feasibility of THC monitoring, the correlation between THC and organic pollutants emissions, and the risk assessment methodology used in the THC approach. As a result, today EPA is requesting comment on an alternative regulatory approach it is considering for controlling organic pollutant emissions from sewage sludge incinerators.

The alternative approach being considered is similar (but not identical) to that proposed by the Agency in its Standards for Emissions Monitoring for Owners and Operators of Hazardous Waste Incinerators and the Burning of Hazardous Wastes in Boilers and Industrial Furnaces (See Reference numbers 6 and 7). Under today's revised approach, EPA would establish an

operational standard or standards for THC emissions. An operational standard is a numerical limitation for THC emissions that must be achieved by the incinerator; however, the method (e.g., engineering and technology changes such as the addition of an afterburner; and operating modifications such as changing temperature or feed rate; etc.) for achieving the numerical limitation is left to the discretion of the owner or operator of the facility. This approach is consistent with section 405(d)(3) of the CWA which states "if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard * * *." The following section gives a brief description of the proposed part 503 regulations for sewage sludge incinerators and their technical bases. A complete discussion of the proposed regulations and their technical bases is found at 54 FR 5835–5853, 5888–5891, 5897.

Approach in the Proposed Rule

The incinerator requirements set forth in the part 503 proposal applied to those facilities that fire waste streams consisting only of sewage sludge. As part of the proposal, the Agency proposed to require site-specific limits based on continuous THC monitoring as a means to control toxic organic emissions from sludge incinerators.

Total hydrocarbons are defined in the proposal as the sum of all emitted organic compounds that have one or more carbon-to-carbon bonds, one or more carbon-to-hydrogen bonds, and that may also have one or more carbon-to-chlorine, carbon-to-nitrogen, or carbon-to-oxygen bonds. The site-specific incinerator emission limits are expressed in terms of the concentration of total hydrocarbons in the emissions.

EPA proposed to limit the concentration of total hydrocarbons in the emissions of sewage sludge incinerators for two reasons. First, the approach controls the emission of individual organic compounds found in sludge fed into the incinerator, and second, the approach controls the emission of organic compounds that are created during the combustion process (i.e., products of incomplete combustion—PICs). The Agency recognized setting limits on total hydrocarbons was an innovative approach that would stimulate considerable scientific debate as to its use in the proposed rule and to its applicability to other incinerator programs within the Agency.

1. General Requirements

Owners and operators of sewage sludge incinerators would be required to continuously monitor and record the total hydrocarbon concentration in the emission gases. Monitoring total hydrocarbons in the emissions was proposed in lieu of specifying the concentrations of organic pollutants in the sludge feed. (Note: The proposal would control metals in the sludge feed as the method of controlling inorganic emissions from sludge incinerators on a pollutant-by-pollutant basis. This method is not being considered for revision in today's notice.)

The proposal would require total hydrocarbon emissions to be measured using a heated flame ionization detector (FID) system. The detector is a hydrogen-oxygen flame into which a small sample of the exhaust gases from the incinerator is introduced. If hydrocarbon gases are present in the exhaust, they will burn in the hydrogen-oxygen flame. The oxidation of the carbon-to-carbon and carbon-to-hydrogen bonds is detected as an electrical signal. The electrical signal is a direct measure of the number of carbon-to-carbon and carbon-to-hydrogen bonds that are oxidized in the flame. Standardized gases of known hydrocarbon concentration are periodically introduced into the sample stream to calibrate the instrument.

When the flame ionization detector system actually measures the total hydrocarbons, the measurement must then be multiplied by a correction factor and adjusted to 7 percent oxygen before it is compared to the facility's numerical limit for total hydrocarbons. Unless this conversion is done, the measured hydrocarbons could be diluted by excess air and would not represent the actual hydrocarbon concentration in the exit gases. Under the proposal, compliance with the site-specific, risk-based total hydrocarbon limit calculated for the facility would be determined by comparison with the measured, oxygen-corrected total hydrocarbon reading from the flame ionization detector.

2. The Risk Assessment Methodology Used To Establish Site-Specific THC Limits

To develop a site-specific risk-based concentration for total hydrocarbons in the proposal, the Agency developed a weighted carcinogenic potency (Q^*) value for the organic compounds that are projected to be in the emissions of a sewage sludge incinerator. In developing the Q^* value, the Agency multiplied the Q^* value of every carcinogenic organic pollutant listed in EPA's computerized Integrated Risk Information System (IRIS) by the weighted fraction of the compound in the emissions of sewage sludge incinerators. Calculating a weighted fraction of a compound in the emission required a two step process. First, the Agency determined the concentration in micrograms per cubic meter ($\mu g/m^3$) for the pollutant in the emissions in one of three ways. If the compound was measured in the emissions of a sludge incinerator during an EPA test, the average of the measured concentrations for the compound was used. In the case of compounds expected to be present because they are commonly found in other combustion emissions such as emissions from municipal waste combustors or hazardous waste incinerators, but not detected, the concentration of these compounds in emissions from these sources ($\mu g/m^3$) was used. Finally, for the remaining pollutants listed in IRIS and not detected in the emissions of sewage sludge incinerators, an analytical detection limit of 0.1 $\mu g/m^3$ was assigned to those pollutants. The Agency than calculated a weighted fraction for each pollutant by dividing the sum of all the pollutants concentrations into each individual pollutant concentration. Then the weighted fraction of each pollutant was multiplied by the pollutant's cancer potency value (Q^*) and the resulting product was summed to give a weighted carcinogenic potency value for all carcinogenic pollutants detected or not detected.

Weighted fractions were also calculated for all non-carcinogens that have a reference dose (RfD) in IRIS. However, the Agency assumed that the actual ambient air concentration of the non-carcinogens (i.e., threshold pollutants) would not exceed their inhalation RfDs and, therefore, do not contribute to the weighted Q^* value or cause adverse health effects. The weighted Q^* value was calculated as 0.013 (milligrams per kilogram per day)$^{-1}$.

From the Q^* value, the Agency developed a risk-based concentration (RSC) for THC of 2.69 $\mu g/m^3$ used in the proposal. This value represents the lifetime average exposure to THC that would yield a risk of 1×10^{-5} for the most exposed individual (MEI). The proposal uses the RSC in a simple equation to develop a site-specific numerical limit for the maximum allowable THC concentration in the facilities incinerator emissions. As

discussed earlier, this calculated numerical limit is compared to the oxygen-corrected total hydrocarbon reading from the flame ionization detector to determine if the incinerator would be in compliance with the facilities permit.

Science Advisory Board Review of the THC Approach Used in the Proposed Rule

At the request of the Agency, a subcommittee of the EPA Science Advisory Board (SAB) was assembled to review major technical parts of the proposed part 503 regulations concerning sewage sludge incinerators. The subcommittee consisted of ten experts in the technical areas under review.

The SAB subcommittee reviewed five major issues pertaining to the sludge incineration part of the proposed regulations. The subcommittee also looked at the need for long-term research by which some of the generic issues could be addressed to improve the scientific and technical basis for future regulations. The five technical issues were as follows:

1. Are appropriate and correct air dispersion models used to relate stack emissions to ground level concentrations for the most exposed individual?
2. Is the MEI defined properly?
3. Are the assumptions concerning efficiency of air pollution control devices correct and appropriate?
4. Is it appropriate to use total hydrocarbon emissions as a monitoring surrogate for total organic compounds emitted?
5. Are the requirements for good incinerator operations properly evaluated and stated?

The reader is referred to the SAB Report "Review of Proposed Sewage Sludge Incineration Rules (40 CFR parts 257 and 503"), EPA-SAB-EEC-89-02X for a complete and detailed discussion of the five issues.

SAB Conclusions and Recommendations—The SAB subcommittee made, in part, the following conclusions concerning the THC approach used in the part 503 proposal.

The Office of Water has made a strong effort to use a limited data base on emissions and the associated health risk of toxicants to develop a risk-based regulation for sewage sludge incinerators. These regulations focus on the control of metals and organics emissions from incinerators. The Subcommittee believes that incineration is an important and viable technology for sewage sludge disposal; we conclude however, that there are a number of technical flaws with the currently proposed regulations which are likely to preclude the effective regulation of sewage sludge treatment by incineration.

These risk-based regulations do not have a strong enough technical basis to allow actual standards to be developed directly, due to a wide range of uncertainties associated with the risk-based analysis. Many safety factors are built into the analysis. Each individual safety factor appears reasonable, but the multiplicative use of a series of such factors makes the final number unreasonable. The methodology as presented does not explicitly assign measure of uncertainty or confidence to the calculations. A false and misleading impression of confidence is conveyed by the final expression of risk as a single number.

We endorse the concept of using a stack gas measure of total hydrocarbons emissions for monitoring sludge incineration and air pollution control device performance. However, the use of total hydrocarbons as a direct indicator of risk is not possible due to the uncertainties associated with the field implementation of hot FID systems and the lack of direct link between total hydrocarbons, as measured by the FID, and the total spectrum of organics which might be emitted from sewage sludge incinerators. Also, since it has not been demonstrated that the proposed hot FID systems can operate continuously in the stack gas environment of sewage sludge incinerators, it is not appropriate to propose regulations that will demand such operation in order to be in compliance.

The SAB subcommittee stated that the THC measurements at best may indicate the combined performance of combustion and air quality control devices, but how these measured concentrations at the stack relate to environmental concentrations of carcinogens remains unknown. The subcommittee suggested that EPA has the scientific basis for developing operational standards, and that such standards would be enforceable and provide incentives for improving incineration technology and pollution control equipment. They also recommended that the Agency undertake and support "epidemiological research to determine the incidence of adverse health effects in populations residing near existing incineration facilities."

Public Comments on the Proposed Rule

The Agency received comments from many respondents on the incineration portion of the proposed part 503 regulations which paralleled the conclusions of the SAB. These comments fell into two groups. The first group concerns the feasibility of THC monitoring of sludge incinerator emissions. The second group concerns the risk assessment methodology used by the Agency to establish the risk-based THC limits.

Commenters indicated that THC monitoring has not been shown to be practical for sludge incinerators and carbon monoxide (CO) monitoring should be used instead. These commenters suggested CO monitoring since it has been demonstrated in other incinerator applications and is simpler to operate and maintain. Some commenters argued that THC monitoring is more costly than EPA estimated and would result in many incinerators having to install afterburners unnecessarily. Other commenters recommended that EPA should use THC monitoring to determine overall combustion efficiency of the incinerator and set minimum temperatures, or specify afterburners to ensure complete destruction of organic pollutants.

Several respondents quarreled with the risk assessment methodology used to established THC limits contending that there are too many scientific uncertainties involved in the calculation of a single weighted carcinogenic potency value representing the risk of organic compounds emitted from sludge incinerators. Others opposed certain other aspects of the Agency's proposed method for calculating hydrocarbon limits including assigning a detection limit of 0.1 $\mu g/m^3$ for both carcinogens and threshold compounds not detected in any of the incinerators tested but included in EPA's IRIS data base. Many commenters pointed out that the correlation between THC readings and the total concentration of detected organics in the four incinerators EPA tested was poor and that EPA should conduct more testing before it tries to calculate a risk for total hydrocarbon emissions.

Discussion

The Agency agrees with many of the comments provided by the SAB and the public concerning the feasibility of THC monitoring and the approach proposed for establishing THC limits for sewage sludge incinerators. As a result, the Agency is considering substituting that approach with an operational standard similar (but not identical) to the one being proposed in Tier II of the hazardous waste incinerator regulations. In addition, based on these comments and the recommendations of the SAB, the Agency has undertaken a study to determine the feasibility of THC monitoring using a hot flame ionization detector system in sewage sludge incinerators. The discussion below explains the approach being considered and recent EPA studies on THC monitoring and incinerator testing.

1. Hazardous Waste Incinerator Proposal

The Agency has recently proposed Standards for Emissions Monitoring for Owners and Operators of Hazardous Waste Incinerators and the Burning of Hazardous Wastes in Boilers and Industrial Furnaces (see Reference numbers 6 and 7). In these rules the Agency is proposing to require continuous carbon monoxide monitoring as the primary technique to control organic products of incomplete combustion (PICs).

Low CO levels in flue gas are indicative of an incinerator (or any combustion device) operating at high combustion efficiency. Operating at high combustion efficiency helps ensure minimum emissions of unburned (or incompletely burned) organics. In a simplified view of combustion of waste, the first stage is immediate thermal decomposition of the principal organic hazardous constituents (POHCs) in the flame to form other, usually smaller, compounds, also referred to as PICs. These PICs are generally rapidly decomposed to form CO.

The second state of combustion involves the oxidation of CO to CO_2 (carbon dioxide). The CO to CO_2 step is the slowest (rate controlling) step in the combustion process because CO is considered to be more thermally stable (difficult to oxidize) than other intermediate products of combustion of hazardous waste constituents. Since fuel is being fired continuously, both combustion states are occurring simultaneously.

The Agency has selected a 100 ppm (corrected to 7% oxygen) concentration of CO as a numerical limit that corresponds to operation at a high combustion efficiency. The 100 ppm limit is described as the Tier I limit. Testing data on hazardous waste incinerators, boilers and furnaces have shown that the levels of destruction and removal efficiency (DRE) of POHCs in the units and the risk levels of PIC emissions are adequate when CO levels are 100 ppm or below. However, the same testing has also shown that CO levels can be higher than 100 ppm and the combustion unit may or may not still have acceptable DRE and PIC emissions. Thus, in the hazardous waste proposal, the Agency states that when CO levels are below the 100 ppm limit, it is reasonably assumed that DREs of 99.99 percent for principal organic hazardous constituents are being achieved and that PIC emissions are not exceeding the 1×10^{-5} MEI risk level.

In the situation where a hazardous waste combustor has CO stack emissions which exceed the 100 ppm limit, a second approach has been proposed. This approach would waive the 100 ppm CO limit and would allow a second (Tier II) approach. In Tier II, the 100 ppm CO limit would be waived if a technology-based demonstration showed that the THC concentration in the stack gases does not exceed a good operating practice-based limit of 20 ppm. EPA has tentatively selected a regulatory level of 20 ppm for hazardous waste incinerators because:

(1) It is within the range of values reported in our data base for hazardous waste incinerators and boilers and industrial furnaces burning hazardous waste; and (2) The level appears to be protective of human health based on risk assessments for 30 hazardous waste incinerators operating in this range.

Under Tier II, total hydrocarbons would be monitored for hazardous waste incinerators during the trial burn to ensure that the highest hourly average level does not exceed 20 ppm. EPA believes that continuous hydrocarbon monitoring should also be required over the life of the permit and an exceedence of the THC limit would be linked to automatic waste feed cutoff.

It is an approach similar (but not identical) to the proposed Tier II THC approach for hazardous waste incinerators that the Agency is considering modifying for the part 503 sewage sludge incinerator regulations. This approach would replace the earlier proposal establishing an operational standard or standards for THC emissions in the final part 503 rule.

2. Feasibility Study on THC Monitoring

Because of questions raised about the feasibility and reliability of the THC monitoring of sewage sludge incinerator emissions, EPA has been sponsoring a long-term demonstration of a heated FID system for use as a THC monitor at the Metropolitan Waste Control Commission (MWCC), Metropolitan Wastewater Treatment Plant in St. Paul, Minnesota. The plant has 6 multiple hearth sludge furnaces, with wet venturi scrubbing systems and waste heat recovery boilers. A heated total hydrocarbon measuring instrument, a Beckman Model 402, was installed on incinerator No. 9 on June 19, 1989.

The MWCC plant was selected for this study because the plant's management approached the Agency about conducting a cooperative research activity and the incinerator facility has a sophisticated computer control system that allows for the collection and analysis of incinerator and air pollution control device operating data.

The objectives of the study are as follows:

1. Demonstrate the feasibility and long term reliability of an FID system on a full scale sewage sludge incinerator.

2. Determine the costs of operation and maintenance of the FID monitor.

3. Evaluate the effects of various incinerator operating parameters on THC emissions such as operating temperatures, excess air rates, transient operating conditions, and scrubber operation.

4. Correlate the organic emissions from the incinerator with the THC readings to strengthen the Agency incinerator emission data base and to further support the regulation of total organic compound emissions through the regulation of THC emissions.

Instrument Reliability—The heated FID system has operated satisfactorily since its June, 1989 start-up. Several modifications to the standard gas sampling system were made which have contributed to the success of the project to date.

a. A 180-degree shroud was installed on the upstream side of the sintered metal stack sampling probe. This has the effect of reducing the direct impact of stack gas stream particles on the sintered metal sampling probe and is believed to greatly reduce plugging of the sampling probe.

b. The sintered metal sample probe is routinely back purged with calibration gases during the bi-weekly instrument calibration and maintenance check.

c. The temperature of the sampling system instrument was raised from 150 °C to 190 °C. At 190 °C, erratic behavior of the system ceased and stable operation was achieved. It is theorized that at the 150 °C operating temperature, moisture in the stack gas was causing the unstable operation. It appears that at least for the St. Paul incinerator system, which has a stack temperature of 90–100 °F (32–38 °C), 190 °C is necessary for successful operation. Based on this experience, it is not known at this time if temperatures of 190 °C for the sampling system and the FID instrument will be needed at other facilities or whether each facility will be able to arrive at its own optimum operating temperature.

With these modifications of the FID system, the system has performed quite well. For the period of June to December 1989, the THC system was operational 88.2 percent of the time. Most of the down time (approximately 7.2 percent) was related to an instrument equipment failure; specifically, the back pressure regulator and the internal pump failed on October 10, 1989. The unit was out of service for 13 days because the plant did

not have the spare parts to affect an immediate repair. The remaining 4.6 percent of the instrument down time was due to the normal maintenance shut-down of the incinerator itself. Sludge incineration plants routinely using hot FID monitors in the future would be expected to have repair parts on site as well as back-up instruments to minimize down time.

The hot FID instrument has been collecting data which is being used in a number of analyses. For example, the THC levels in the stack have been found to correlate very well (correlation co-efficient, r^2—0.90) with the top hearth gas temperatures. Carbon monoxide instrument data does not show as good a correlation with either top hearth gas temperatures or THC data. A second heated FID system was put into operation on October 10, 1989. The readouts of both instruments correlate very well, with only a 10 percent difference between the two THC readouts. Additional parametric tests on upset operating conditions and scum burning are being conducted. Also measurements of emissions of individual semi-volatile and volatile organic compounds are planned so that EPA may better correlate THC measurements with total organic compounds emissions and better understand the health risks associated with THC readings.

The operating and maintenance costs of the hot FID system at St. Paul have been recorded. For the period of June 19, 1989 to December 31, 1989, 160 labor hours have been spent on operation and maintenance of the system. The Agency feels that this is a reasonable effort to ensure that emissions of organic pollutants are controlled to acceptable health risk levels.

EPA plans additional demonstration of THC and CO monitoring on sewage sludge incinerators in fiscal year 1991. These additional demonstrations are expected to further show the viability of continuous THC/CO monitoring of sludge combustion systems. As of today's notice, EPA believes that THC monitoring is a viable regulatory tool. However, questions still remain about the use of hot monitoring systems such as the one being tested at St. Paul and cold conditioned gas systems that have proven successful at hazardous waste incinerators.

3. EPA's Comprehensive Sludge Incinerator Testing Program

In 1986–1987, EPA conducted a comprehensive series of emissions tests at four sewage sludge incinerators, three multiple hearth furnaces and one a fluidized bed furnace. These test results are reported in the Draft Technical Support Document, Incineration of Sewage Sludge (see Reference number 8). These four incinerator tests (identified as sites 1 through 4) included continuous monitoring of THC and CO as well as stack sampling of organics and metals.

In 1989, the Agency started another comprehensive testing program of sewage sludge incinerators. These tests are focused on collecting data to determine the toxicity of nickel and chromium emissions and to strengthen the Agency's data base on organic emissions. The testing program has included five incinerators in addition to the work at MWCC St. Paul discussed earlier. A major part of the testing program has included an attempt to show that typical incinerator organic emissions can be reduced by adopting "improved" operating conditions. Also the test series has included extensive continuous monitoring of emissions including CO and "hot" and "cold" THC.

At this time not all of the test results are available. However, most of the THC and CO monitoring data are available for sites 6, 7, and 8. The following discussion is a summary of the THC and CO test results collected by EPA for sewage sludge incinerators located at these sites.

Discussion of Test Results—Table II C–1 presents test data from five multiple hearth and two fluidized bed incinerators. Three preliminary conclusions can be drawn from the test data: (1) Routinely operated fluidized bed sewage sludge incinerators have considerably lower concentrations of CO and THC in their emissions than multiple hearth incinerators. Carbon monoxide emissions for fluidized bed units are in the range of 7 to 277 ppm whereas CO emissions for multiple hearth units are in the range of several hundred to several thousand parts per million; (2) A fluidized bed unit is capable of emitting THC at less than 5 ppm during routine operations. Routine operations of multiple hearth incinerators produce THC emissions generally in the range of 10 to 50 ppm with at least one unit emitting THC at greater than 100 ppm; and (3) Improvements in operating conditions for multiple hearth incinerators or installation of an afterburner on such units can significantly reduce THC emissions. Optimizing operating conditions of sludge feed rate, combustion temperature and combustion air distribution for a multiple hearth incinerator resulted in significant reductions of both THC and CO emissions. The use of an afterburner on a multiple hearth unit significantly reduced THC emissions down to 1 to 2 ppm. The test data collected to date and the preliminary findings are discussed in greater detail below.

The test data in Table II C–1 shows that the two fluidized bed incinerators have lower concentrations of CO and THC in their emissions compared to the multiple hearth units. Site 3 has three parts per million of THC or less, and Site 8 has five parts per million of THC or less. These concentrations are significantly lower than the THC emissions from the five multiple hearth incinerators without afterburners. This is also true of the CO emission levels which averaged 181 ppm at site 3 and seven parts per million at site 8. Lower THC and CO emissions from fluidized bed incinerators would be expected since the mixing of sludge and air during combustion is more intense and complete, thereby, leading to more efficient combustion than a multiple hearth unit.

TABLE II C–1.—SUMMARY OF TOTAL HYDROCARBON AND CARBON MONOXIDE DATA FROM SLUDGE INCINERATOR TESTS

[Data corrected for seven percent oxygen]

Incin. type	Site	Run	THC (ppm)	CO (ppm)	Comments
Multiple Hearth	1	1	14	489	
	1	2	22	630	
	1	3	13	661	
	1	4	12	554	
	1	5	12	506	
			Avg., 14.6	Avg., 568	
Multiple Hearth	2	1	26	1026	
	2	2	27	1116	

TABLE II C-1.—SUMMARY OF TOTAL HYDROCARBON AND CARBON MONOXIDE DATA FROM SLUDGE INCINERATOR TESTS—Continued

[Data corrected for seven percent oxygen]

Incin. type	Site	Run	THC (ppm)	CO (ppm)	Comments
	2	3	55	2399	
	2	4	.....	2256	
	2	5	.....	1357	
	2	6	.....	1057	
			Avg., 36	Avg., 1535	
Fluidized Bed	3	1	2	277	
	3	2	.....	90	
	3	3	3	176	
			Avg., 2.5	Avg., 181	
Multiple Hearth with Afterburner	4	1	.....	380	Afterburner off.
	4	2	25	1743	Afterburner off.
	4	3	289	2835	Afterburner off.
	4	4	1	308	Afterburner on.
	4	5	2	97	Afterburner on.
	4	6	1	239	Afterburner on.
	4	7	13	1365	Afterburner off.
	4	8	13	1365	Afterburner off.
	4	9	32	3246	Afterburner off.
			Avg. 47	Avg. 1449	
Multiple Hearth	6	3	46	2714	Normal Operation.
	6	4	24	1473	Normal Operation.
	6	5	101	2919	Normal Operation.
	6	6	38	2758	Normal Operation.
	6	7	45	3463	Normal Operation.
	6	8	32	1821	Normal Operation.
	6	9	13	1132	Improved Operation.
	6	10	16	1090	Improved Operation.
	6	11	13	986	Improved Operation.
	6	12	13	1109	Improved Operation.
	6	13	34	2586	Normal Operation.
			Avg., 34	Avg., 2005	
Multiple Hearth	7	.....	93	4600	
	7	.....	110	4000	
	7	.....	100	40000	
	7	.....	60	1600	
	7	.....	492	5740	These numbers for site 7 were estimated from instrument plots.
		.....	Avg., 171	Avg., 3988	
Fluidized Bed	8	4	2	7	
	8	5	3	6	
	8	6	3	7	
	8	7	3	9	
	8	8	5	7	
	8	9	3	8	
			Avg., 3.2	Avg., 7.3	

For the multiple hearth units shown in the table, THC and CO are typically higher and more variable than the fluidized bed incinerators. Carbon monoxide levels are highly variable between multiple hearth incinerators and within individual multiple hearth incinerator runs. However, the number of fluidized bed incinerators in the sample is limited, suggesting that this generalization is more suggestive than conclusory.

Site 4 is of particular interest because this multiple hearth unit is equipped with a direct-fired afterburner. When the afterburner was in operation, the THC levels dropped from an average value of 75 ppm to 1 to 2 ppm. From this test, it is clear that addition of an afterburner to a multiple hearth incinerator will significantly reduce organic emissions down to or below those emitted from a fluidized bed unit.

Site 6 is also of special interest. The first six test runs were made with the multiple hearth furnace running at normal operating conditions as routinely operated by the plant personnel. The next four test runs were made after changing (improving) incinerator operating conditions for sludge feed rate, combustion air distribution, and combustion temperatures. These changes resulted in significant reductions in both THC and CO concentrations. Thus, it is possible to make significant reductions in THC emissions by improving the operations of multiple hearth incinerators without installing afterburners.

Revised Approach for the Final Part 503 Rule

The Agency agrees with many of the findings and recommendations made by the SAB and the public comments, and is considering revising its THC approach for controlling organic pollutant emissions from sewage sludge incinerators covered by the proposed part 503 regulations. The CWA has specifically provided for alternatives to numerical limits for sewage sludge use and disposal in certain circumstances. Section 405(d)(3) of the CWA states:

"Alternative standards—For purposes of this subsection, if, in the judgement of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified

under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgement is adequate to protect public health and the environment from any reasonably anticipated adverse effect of such pollutant."

Congress recognized that circumstances would arise where it would *not* be feasible for EPA to prescribe numerical limits for pollutants in sludge for certain sludge use and disposal practices. EPA has concluded that establishing site-specific numerical THC limits for sewage sludge incinerators is just such a case.

The part 503 site-specific approach would be replaced with an operational standard similar (but not identical) to the technology-based Tier II approach being proposed for hazardous waste combustion systems. It is the Agency's belief that an operational standard for sewage sludge incinerators will be more defensible, less burdensome to implement, and equally protective of public health and the environment as the approach proposed in the February 6, 1989 part 503 proposal.

Under the revised part 503 approach, sewage sludge incinerators would be monitored during a trial burn to ensure that the highest hourly THC level does not exceed a good operating practice-based THC limit (i.e., an operational standard for THC emissions). In addition, continuous THC monitoring would be required using an FID system over the life of the permit and an exceedence of the operational standard for THC emissions would be linked to automatic sludge feed cutoff.

The Agency is considering three options for establishing the operational standard for THC emissions. The first option would be to establish a single operational standard for THC emissions for all sewage sludge incinerators based on best demonstrated technology with or without an afterburner (e.g., an operation standard of 5 ppm THC for all sewage sludge incinerators). The second option would be to set different operational standards for THC emissions based on best demonstrated technology for different types or categories of sewage sludge incinerators (e.g., an operational standard of; 5 ppm THC for all fluidized bed furnaces, 5 ppm THC for multiple hearth incinerators with an afterburner, 20 ppm THC for multiple hearth incinerators without an afterburner, and 20 ppm THC for all other types of incinerators). The third option would be to adopt the operational standard of 20 ppm THC proposed for hazardous waste incinerator for all sewage sludge incinerators because this standard is based on a larger data base (i.e., 30 hazardous waste incinerators) than the existing data base currently available for sewage sludge incinerators (i.e., nine sewage sludge incinerators). The Agency has tentatively concluded, based on existing data that each of these options will not exceed a risk level of 1×10^{-5} to highly exposed individuals or populations.

Request for Comments

The revised approach that is being considered today controls organic pollutant emissions from sewage sludge incinerators using an operational standard for THC emissions and continuous THC monitoring. The Agency is requesting public comments on the revised approach and its requirements, and its protectiveness and implementability. The Agency specifically requests information and data on:

1. What is the best option for establishing the operational standard or standards for THC emissions for sewage sludge incinerators (i.e., a single operational standard for all sludge incinerators vs. different standards for fluidized bed/multiple hearth/other incinerators vs. adopting the operational standard for hazardous waste incinerators)?
2. At what level should the operational standard(s) for THC emissions be set (e.g., 5 ppm, 10 ppm, 20 ppm, 30 ppm, etc.)?
3. Is carbon monoxide monitoring a better approach to controlling hydrocarbon emissions than THC monitoring?
4. Do any facilities have data on or experience with either CO or THC monitoring that they can share with the Agency? and
5. What are the differences between hot and cold THC monitoring and is one type preferred over the other?

Revised Approach for Regulating Non-Agricultural Land Application (Subpart C)

In the part 503 proposal, the Agency established numerical pollutant limits for non-agricultural land application practices using data on existing sewage sludge quality from the "40 City Study." This approach followed a preliminary risk assessment which determined that those practices did not result in high levels of human exposure. Aggregate risk analyses of the proposed limits did not show human health effects on the population as a whole.

The Agency's aggregate risk analysis for non-agricultural land application was based upon the assumption that proposed management practices would eliminate many of the fourteen potential pathways of exposure that had been identified for sewage sludge applied to "agricultural" land. Therefore, the Agency estimated aggregate effects from human exposure to pollutants in sewage sludge applied to non-agricultural land using only two pathways of exposure:

1. Sludge-Soil-Surface Water-Human (Pathway #11); and
2. Sludge-Soil-Ground Water-Human (Pathway #12W)

Using data on national application rates and the two exposure pathways, the Agency estimated that application of sewage sludge to non-agricultural land would result in a maximum individual cancer risk of 2×10^{-8} based upon the 98th-percentile pollutant concentrations shown in the "40 City Study." The 98th-percentile pollutant concentrations are calculated from a regression analysis of the values of 25 pollutants in the "40 City Study." The Agency selected the 98th-percentile concentration to prevent potential deviations from the pollutant concentrations in the "40 City Study" and to prevent increases in any risks associated with the application of sewage sludge to non-agricultural land. The Agency believed that this approach would ensure that sludge quality would not get worse and therefore, assure the continued validity of the risk assumptions underlying the Agency's regulatory control decisions.

Peer review and public comments raised a number of concerns with using the 98th-percentile pollutant concentrations for non-agricultural land application practices. Many respondents were concerned that the proposed approach was arbitrary (an artifact of the "40 City Study") and not adequately protective of public health and the environment. As a result, today the Agency is requesting comments on another risk-based approach it is considering for deriving numerical pollutant limits for sewage sludge applied to non-agricultural land. The revised approach would replace the 98th-percentile approach used in the February 6, 1989 part 503 proposal, with a more comprehensive exposure pathway approach that would consider the risk to highly exposed individuals and populations, the aggregate risk to the population as a whole, and the risk to average exposed individuals and populations. A complete description of the 98-percentile approach and the proposed regulations for non-agricultural land application is found in the proposal at 54 FR 5785–5789, 5798–

5800, 5804–5807, 5860–5861, 5868–5871, 5879–5880, 5895.

Comments on the Proposed Rule

Many respondents questioned the Agency use of the 98th-percentile approach. Their comments are summarized as follows:

—The 98th-percentile approach has scientific and technical deficiencies and either over or under regulates non-agricultural land application of sewage sludge depending on the pollutants of concern and the practice
—The numerical limits derived from the 98th-percentile approach are not supported by adequate risk assessments and are not substantiated by field studies
—The proposed approach will reduce the desirability of the non-agricultural land practices because of the increased public perception of a human health or environmental risk
—The approach for agricultural and non-agricultural land application practices should be consistent
—The 98th-percentile based numerical limits cannot be considered a substitute for plant and animal exposure pathways

Discussion

The Agency's objective is to encourage the beneficial reuse of sludge wherever safe environmental use is possible. To be consistent with other beneficial reuse practices within the part 503 rule, the Agency is considering developing numeric limits for non-agricultural land application of sewage sludge similar to the risk assessment approach used for "agricultural" land application practices. Based on comments and research, the Agency now believes there is adequate data available from direct studies of plants and animals in non-agricultural sludge scenarios, or which can be interpolated from other sludge studies to perform a defensible and comprehensive risk assessment for non-agricultural land practices.

The Risk Assessment Approach Used for Agricultural Land Application Practices

In the part 503 proposal the Agency used mathematical models to determine the concentration of a pollutant reaching a target organism when sewage sludge is applied to agricultural land. The models consider the likely exposure to the target organism from soil, food, air, surface water, and ground water. The target organism is a highly exposed individual, plant or animal, or population that remains for an extended period of time at or adjacent to the site where the exposure occurs. An explanation of how this process works is found in the proposal at 54 FR 5765–5767.

All 14 pathways assessed for "agricultural" land practices were evaluated by the Agency for their applicability to use of sludge on non-agricultural land. The Agency believes that not all the pathways (or assumptions used in characterizing these pathways) for agricultural practices are appropriate for nonagricultural land practices and could be unnecessarily restrictive. Thus, the Agency has deleted some of the pathways and revised the assumptions used in others so that they are better suited to a risk assessment for non-agricultural land practices.

Revised Approach for the Final Part 503 Rule

The Agency is considering revising the approach it has taken for regulating sewage sludge applied to non-agricultural land. This revised approach would establish specific numerical pollutant limits for different categories of non-agricultural land application using an exposure pathway analysis rather than the 98th percentile limitation proposed earlier. The Agency would consider the aggregate risk to the population as a whole, the risk to average exposed individuals and populations, and the risk to highly exposed individuals and populations before establishing numerical pollutant limitations and management practices for non-agricultural land practices. The numerical limits, management practices, and other requirements developed for non-agricultural land application would apply to anyone who spreads liquid, dewatered, dried or composted sewage sludge on or just below the surface of non-agricultural land. Examples of non-agricultural lands include lands used for forests or turf farming, lands reclaimed for more productive purposes (i.e., lands devastated by fires, strip mining, etc.), and lands dedicated to sludge disposal.

The Agency is now requesting comment on the development of different numerical limitations for sewage sludge when use on:

(1) Forest and range lands;

(2) Soil reclamation sites (e.g., lands devastated by natural disasters, strip mined areas, construction sites, etc.);

(3) Public contact sites (e.g., parks, golf courses, campuses, playgrounds, highway medians, etc.);

(4) Dedicated disposal sites (i.e., land owned by the sludge generator and designated for sludge disposal); and

(5) Dedicated beneficial use sites (i.e., land owned by the sludge generator and used to grow feed crops for domestic animals).

As of today's notice, the Agency has not completed its analysis and development of specific numerical pollutant limitations for each of the five categories of non-agricultural land application. The Agency recognizes that some of these categories differ significantly from others with respect to the method of sludge application (e.g., soil reclamation sites may only have one or more high rate sludge applications over a short time period while public contact sites may have many low rate sludge applications over multiple years). For this reason the Agency is conducting a separate risk assessment and developing numerical limits for each non-agricultural land application category. In addition to meeting the specific numerical limitations, the application of sludge would also have to meet specific management requirements the Agency is considering for each non-agricultural land application category. However, if the Agency finds that the numerical limits and management requirements for some or all of the five categories are the same it may combine these categories for the final part 503 rule. The Agency invites public comment on this alternative.

1. Development of Appropriate Pathways of Exposure

The revised risk-based approach for non-agricultural land practices will use many of the same modeling assumptions, exposure pathways and target organisms as were used for "agricultural" land practices including aggregate risk and risks to average and highly exposed individuals and populations. However, the Agency recognizes that the two practices do have significant differences. Because of these differences, new or modified exposure pathways have been added. In addition, different assumptions used within each non-agricultural practice category have resulted in the Agency tailoring the exposure pathway specific to the practice category. For example, it is not probable that an individual will live for 70 years of his life next to a public contact site in which all of his drinking water is from a stream or aquifer influenced by the site. The probability of risk is low because the Agency has found that generally public contact sites are relatively small areas in size and close to public drinking water supplies not influenced by the site.

In cases where the exposure pathway is the same as used for "agricultural" land practices, the numerical pollutant

limits derived from the risk assessment for "agricultural" land application of sewage sludge will be used for the non-agricultural land practice if it is the "critical pathway." The pathways of exposure being considered in today's notice for non-agricultural land application of sewage sludge are as follows:

1. Sludge-soil-plant-human (Pathway #1).
2. Sludge-soil-human-present use (Pathway #2P).
3. Sludge-soil-plant-animal-human (Pathway #3).
4. Sludge-soil-animal-human (Pathway #4).
5. Sludge-soil-plant-animal toxicity (Pathway #5).
6. Sludge-soil-animal toxicity (Pathway #6).
7. Sludge-soil-plant toxicity (Pathway #7).
8. Sludge-soil-soil biota toxicity (Pathway #8).
9. Sludge-soil-soil biota-predator of soil biota toxicity (Pathway #9).
10. Sludge-soil-airborne dust-human (Pathway #10).
11. Sludge-soil-surface water-contaminated water-toxicity to fish-toxicity to humans (Pathway #11).
12. Sludge-soil-air-human (Pathway #12A).
13. Sludge-soil-ground water-human (Pathway #12W).

An explanation of the assumptions used in the pathway exposure analysis is provided below:

Pathway #1—In model Pathway #1 the Agency will evaluate exposure to individuals from ingesting wild plants found growing on sludge-soil mixtures on forest and range lands, soil reclamation sites, and public contact sites. The individual is exposed for 70 years from ingesting wild plants (e.g., berries, flowers, mushrooms, bulbs) canned for year round use. Pathway #1 determines an allowable pollutant concentration in the soil based on (1) the allowable pollutant intake; (2) an individual typical daily consumption of several types of wild plants found growing on sludge-soil mixtures; (3) the fraction of different wild plants assumed to be growing on sludge-soil mixtures; and (4) the uptake of a pollutant by each type of wild plant (uptake coefficient). Pathway #1 is intended to correspond to the exposure of an individual living in a region where sludge is widely applied in these non-agricultural practices. It assumes that an individuals intake of wild plants comes from sludge-soil mixtures. Pathway #1 does not assume that the non-agricultural land is converted to residential home garden use 5 years after the final application of sludge as was done for "agricultural" land application (Pathway #1F). The Agency is considering allowing conversion of a non-agricultural site to an agricultural site (and ultimately a residential site) only if cumulative metals loadings are at or below agricultural loading limits. The Agency requests comments on this alternative.

Pathway #2P—The Agency will evaluate the inadvertent ingestion of soil by children in Pathway #2P. It is assumed that children would come into contact with sludge-soil mixtures when entering forest and range lands, and public contact sites after sludge application. It is also assumed that a sludge-soil mixture is ingested at a rate of 0.2 gram per day for five years. The allowable pollutant concentration in the soil is the quotient rate of pollutant ingestion that will not adversely affect a child and the rate of soil ingestion.

Pathways #3 and #4—The Agency will evaluate human exposure from the consumption of wild and domestic animals in Pathways #3 and #4. Pathway #3 assumes that an individual's meat is from hunting wild animals (herbivores) foraging on vegetation grown on sludge-amended soil on forest and range lands, and soil reclamation sites; or that an individual consumes a small percentage of their meat and dairy products from domestic animals grazing on or feed crops from sludge-amended soil on soil reclamation sites and dedicated beneficial use sites. The allowable pollutant concentration in the soil is the quotient of the allowable pollutant concentration in the feed crop and a crop uptake factor (partition coefficient). The allowable pollutant concentration in the feed crop is determined from (1) the human intake of the pollutant that can be allowed without causing undue risk, (2) typical consumption rates of various classes of animal products, (3) the percentage of each class of animal product assumed to be raised on sludge-amended soil, and (4) a set of uptake factors relating the pollutant concentration in each animal product to the pollutant concentration in the feed consumed by the animal.

In Pathway #4 where animals graze, the pathway assumes that eight percent of the grazing animal's diet consists of a sludge-soil mixture. This is the same approach as for "agricultural" land practices where the allowable pollutant concentration in the soil is the allowable feed concentration divided by the fraction of the animal's diet that is sludge-amended soil. The allowable soil concentration is determined as in Pathway #3, with some differences in the fraction of each food class assumed to be grown on sludge-amended soil. In both Pathways #3 and #4 the individual is exposed for 70 years.

Pathways #5 and #6—For the pathways intended to protect wild animals and livestock from toxicity (Pathways #5 and #6), the Agency will evaluate animal toxicity data to estimate the maximum allowable pollutant concentration in the feed or sludge-soil mixture that would not be toxic to an animal. Wild animals and livestock include small herbivores, birds, rodents, etc., found on forest and range lands, public contact sites, and dedicated beneficial use sites; and domesticated grazing animals such as sheep found on forest and range lands, and soil reclamation sites.

The Agency will assume that the livestock only consumed feed grown on sludge-amended lands. In the pathway involving the uptake of a pollutant from the soil into the feed crop (Pathway #5), the allowable pollutant concentration in the soil is the quotient of the allowable pollutant concentration in the feed and the estimated plant uptake factor (partition coefficient).

In Pathway #6 involving direct ingestion of the contaminated soil by a grazing animal, eight percent of the animal's diet is assumed to be sludge-amended soil that is incidentally ingested. This is the same approach as for "agricultural" land application involving grazing livestock. The allowable pollutant concentration in the soil is the allowable feed concentration divided by the fraction of the diet that is soil.

Pathways #7 and #8—For the plant toxicity and soil biota pathway (Pathways #7 and #8), the Agency specified an allowable pollutant concentration in the soil for all non-agricultural land practices, which is the concentration that will not cause plant and soil biota toxicity. This value was derived from scientific data relating plant and soil biota toxicity to soil contaminant levels. Thus, the allowable pollutant load for these pathways is that load which, after dilution with surface soil, does not exceed the threshold values.

Pathway #9—For the pathway involving predators of soil biota (Pathway #9), the Agency will evaluate toxicity data to estimate a pollutant concentration in soil biota (insects and worms) that would not be toxic to small insectivores such as birds. For this pathway, the predator is exposed over its entire life and its diet is assumed to be composed entirely of soil biota from the sludge-amended soil. The allowable pollutant concentration in the soil is the quotient of the allowable pollutant concentration in soil biota and an estimated soil biota uptake factor (or partition coefficient).

Pathway #10—Pathway #10 evaluates the potential for adverse

effects from direct inhalation by a tractor driver during tillage operations on a dedicated beneficial use site. This approach is the same as for "agricultural" land practices; the pollutant concentration in the soil is not permitted to exceed the National Institute of Occupational Safety and Health (NIOSH) workplace air quality criteria if significant quantities of soil become airborne. Using the assumption that the total airborne dust does not exceed the NIOSH criterion, this pathway is not a limiting pathway for any pollutant.

The dust inhalation pathway is the only pathway that uses NIOSH criteria. For all other human exposure pathways, the maximum allowable intake is based on the following EPA health effects criteria: a reference dose (RfD) for non-carcinogens; a risk-specific dose for carcinogens; a daily dietary intake derived from the drinking water standard; or a drinking water standard (maximum contaminant level—MCL).

Pathway #11—The surface run-off pathway (Pathway #11) is intended to protect beneficial use of surface waters by determining the pollutant concentration in the soil that would not exceed a Water Quality Criterion for a pollutant if the soil enters a relatively small stream. The rate at which the soil enters the stream is based on an appropriate soil loss equation and sediment delivery ratio for non-agricultural land practices. Water Quality Criteria are designed to protect human health, assuming exposure through consumption of drinking water and resident fish, and to protect aquatic life.

In Pathway #11 the following three routes of exposure are considered for forest and range lands, soil reclamation sites, dedicated disposal sites, and dedicated beneficial use sites: (1) Ingestion from drinking contaminated surface water by humans; (2) exposure to aquatic life inhabiting contaminated surface water; and (3) human ingestion of tainted fish taken from contaminated surface water. Here the individual is exposed over a 70 year lifetime, consuming 2 liters of contaminated drinking water and 6.5 grams of fish per day.

It is assumed that a reasonable worst case situation exists for forest and range lands when sewage sludge is applied annually to 10 percent of a watershed. This would suggest that 10 percent of the surface water flow from the watershed is a result of run-off from the sludge site. Normal components of sludge-soil mixtures during non-storm times are from interlayer flow, which is effective in reducing particulate and dissolved matter migration. Thus, only during intense rainstorm events will over land flow (run-off) generally occur that could impact the receiving water. This situation is assumed to occur up to 10 times each year for forest and range lands.

Soil reclamation sites are assumed to have a one-time application of sewage sludge which is incorporated into the soil at the site and capped with a vegetative cover. Thus, the risk of material entering the surface water from the site via run-off is assumed highest immediately after application of the sewage sludge. For soil reclamation sites 10 percent of the originally applied sludge is assumed to be continually lost over a 70 year period. As in the case with forest and range lands, intense rainstorms are assumed to occur 10 times a year and constitute 10 percent of the surface water flow.

Dedicated disposal and beneficial use sites will use many of the same assumptions as described above except the choice of cover material for these sites will vary. For example, dedicated disposal sites may not have any vegetative cover and resemble bare soil conditions, whereas beneficial use sites may have a feed crop or other vegetative cover. Public contact sites are not included in this pathway analysis.

Pathway #12A—In exposure Pathway #12A, the Agency will evaluate the exposure of an individual inhaling vapors of any volatile pollutants that may be in the sludge when it is applied to forest and range lands, dedicated disposal sites, and dedicated beneficial use sites. The individual is assumed to be living next to the site and inhaling the vapors for 70 years. This pathway is considered for six chemicals: benzo(a)pyrene, bis(2-ethylhexyl) phthalate, chlordane, DDT, dimethylnitrosamine, and polychlorinated biphenyls. The Agency will not apply the vapor pathway to benzene, lindane, trichloroethylene, or toxaphene because these chemicals would volatilize in wastewater treatment processes before sludge disposal—either during wastewater aeration or during sludge processing and de-watering. In addition, the vapor pathway will not be applied to relatively non-volatile metals.

The vapor pathway assumes that the total amount of chemical spread in each year would vaporize during that year. Thus, the allowable annual pollutant loading rate is equal to the flux (mass of chemical per unit area per unit time) that may be allowed to enter the atmosphere without exceeding the allowable pollutant concentration in the air. This concentration corresponds to the RfD, risk-specific dose, or an MCL. A plume model is used to relate the flux to the resulting pollutant concentration in the air. The allowable flux is determined by (1) the allowable pollutant concentration in the air, (2) the size of the sludge application site, (3) the assumed distance of an individual from the site where the air concentration must be attained, (4) the wind speed, and (5) the degree of atmospheric mixing. The wind direction is assumed never to change, so that the individual always remains in the center line of the plume.

Pathway #12W—In exposure Pathway #12W, the Agency will evaluate the exposure of individuals who would obtain their drinking water from ground water located below an area to which sludge had been applied on forest and range lands, soil reclamation sites, dedicated disposal sites, and dedicated beneficial use sites. This is the same approach as for "agricultural" land practices where the leachate concentration formed in the sludge-amended soil layer is related by a partition coefficient to the pollutant concentration in the soil. In moving down through the unsaturated zone, the peak leachate concentration is reduced by the modeled processes of vertical dispersion (primarily caused by detention of sorbed pollutant), chemical degradation, and metal precipitation.

The allowable pollutant loading rate is thus determined from the MCL (that must be met at the ground water interface with no allowance for dilution), the rate of decay of a pollutant, and other factors that affect either the time period for decay or the dispersive smoothing of the peak concentration. These other factors include the recharge or infiltration rate, hydraulic characteristics of the soil, depth to ground water, and the chemical partition coefficient. For some metals, the net ground water electromotive potential (Eh) and ground water pH influence precipitation.

2. Definition of Management Requirements for Non-Agricultural Land Practices

As noted, the Agency is evaluating the appropriateness of establishing numerical limits and management requirements for sludge use on five categories of non-agricultural land; (1) forest and range lands, (2) soil reclamation sites, (3) public contact sites, (4) dedicated disposal sites, and (5) dedicated beneficial use sites. The Agency is considering regulating each of the five non-agricultural land categories using different numerical limitations

instead of a single set of numerical limits for all non-agricultural land practices. The Agency believes a single set of national pollutant concentrations protective of all non-agricultural land practices could over-regulate the different non-agricultural land categories because different categories pose substantially different risks. Such an approach also fails to recognize that certain environmental settings are better suited to assimilate or ameliorate the effect of pollutants than others. The approach the Agency is considering utilizes exposure pathway modeling to establish numerical pollutant limitations for each category of non-agricultural land application. The following management requirements, being considered by the Agency, are to ensure operations at non-agricultural land sites are consistent with the assumptions and parameters used in the exposure pathway models, and to establish good operating procedures to avoid gross public health and environmental abuses:

1. Forest and Range Lands
   a. Food crops may not be grown on sludge applied forest or range lands.
   b. Public access is permitted on sludge applied forest and range lands in accordance with part 503 pathogen requirements.
   c. Buffer areas are to be maintained between the sludge application area and the following: (1) All surface waters and draining areas; (2) residential areas; and (3) public and private water wells.
2. Soil Reclamation Sites
   a. Public access is permitted on sludge applied reclamation sites in accordance with part 503 pathogen requirements.
   b. Buffer areas are to be maintained between the sludge reclamation site and the following: (1) All surface waters and drainage areas; (2) residential areas; and (3) public and private water wells.
3. Public Contact Sites
   a. Buffer areas are to be maintained between the sludge public contact site and the following: (1) All surface water and draining areas; (2) residential areas; and (3) public and private water wells.
4. Dedicated Disposal Sites
   a. Dedicated disposal sites may not be converted to agricultural land, forest or range lands, or to public contact sites.
   b. Public access and game access to dedicated disposal sites are to be restricted at all times.
   c. Buffer areas are to be maintained between the dedicated disposal site and the following: (1) All surface water and draining area; (2) residential areas; and (3) public and private water wells.
5. Dedicated Beneficial Use Sites
   a. Ground cover on dedicated beneficial use sites may be a feed crop for domestic animals; however, domestic animals may not be grazed directly on the site.
   b. Public access and game access to dedicated beneficial use sites are to be restricted at all times.
   c. Buffer areas are to be maintained between the dedicated beneficial use site and the following: (1) All surface waters and drainage areas; (2) residential areas; and (3) public and private water wells.

Request for Comments

The revised approach that the Agency is considering today, is to establish numerical pollutant limits for non-agricultural land application practices using a comprehensive exposure pathway, risk assessment approach. The Agency is requesting public comment on the revised approach and exposure pathways, its requirements and assumptions, and its protectiveness and implementability. In addition, the Agency is interested in receiving any data the public may have on the fate and toxicity of trace metals and organic pollutants found in non-agricultural land practice categories.

Specifically, information is needed concerning the fate of trace organics in all practices and pathways included in the non-agricultural land application of sewage sludge. Information on the effects of sewage sludge on wildlife has been developed for forest sites and soil reclamation sites in Washington, Michigan and Pennsylvania. EPA is interested in receiving data in other areas. Additional information is needed for plant and wildlife on range lands, public contact sites, dedicated disposal sites and dedicated beneficial use sites. The Agency is also interested in data on the effects of sewage sludge on plants, soil biota and aquatic life found in non-agricultural land settings.

Data on the potential human health effects from wind-blown particulates containing sewage sludge is needed especially for forest and range lands, soil reclamation sites and dedicated disposal sites. The Agency is also interested in data on the uptake of metals by wild mushrooms, native herbs and wild berries growing on sludge sites, and the bioavailability of the metals.

Revised Approach for Regulating Surface Disposal Sites (Subpart D)

In the February 6, 1989 proposal, EPA proposed requirements for the disposal of sewage sludge on a surface disposal site. In the proposal, the Agency defined "surface disposal site" as an area of land on which only sewage sludge is placed for a period of one year or longer. Surface disposal sites have no vegetative or other cover, are not part of the POTW's treatment process, and are not sites used for temporary storage of sewage sludge prior to final use or disposal.

As proposed, owners or operators of sewage sludge surface disposal sites would not need to comply with extensive management requirements because the Agency concluded that surface disposal sites generally are small, located in rural areas on lands owned or controlled by local governments, and do not pose a significant threat to public health or the environment. The Agency proposed pollutant limits for sludge disposed at surface disposal sites based on "current sludge quality" (i.e., the 98th-percentile pollutant concentration shown in the "40 City Study").

For many of the same reasons explained above (Subpart C—Revised Approach for Regulating Non-Agricultural Land Application Practices), the Agency is now considering revising its approach for regulating sewage sludge surface disposal sites. Instead of establishing pollutant limits based on 98th-percentile sludge quality, EPA would use exposure assessment models to develop pollutant limits. The approach EPA is considering for surface disposal sites is similar to the two-tiered approach proposed for sewage sludge monofills in the February 6, 1989 part 503 rule. A complete description of the two-tiered approach proposed in the part 503 regulations can be found at 54 FR 5812–5824, 5883–5885.

Revised Approach for the Final Part 503 Rule

In the part 503 proposal, the Agency proposed to establish numerical pollutant limits based on existing sludge quality for sewage sludge surface disposal sites because of its preliminary conclusion that such a disposal would not result in high levels of pollutant exposure to potentially exposed individuals. Further, the Agency's aggregate risk analysis did not show significant human health effects on the population as a whole from this method. To derive numerical limits based on existing sewage sludge quality, EPA

used the 98th-percentile pollutant concentrations of the "40 City Study."

Peer review and public comments suggested that there were scientific or technical deficiencies in using the 98th-percentile pollutant concentrations. Many respondents were concerned that the proposed approach was arbitrary (an artifact of the "40 City Study") and not adequately protective of public health and the environment. As a result, today the Agency is requesting comments on using an exposure assessment approach (similar to the two-tiered approach proposed in the part 503 rule for sewage sludge monofills) for deriving numerical pollutant limits for sewage sludge stored or disposed in surface disposal sites.

1. The Risk-Based Approach

The risk-based approach the Agency is considering for establishing numerical pollutant limits for surface disposal sites is a two tiered approach. Sludge that did not qualify for disposal under the first tier would have the option of alternative limits established under the second tier.

The first tier derives two sets of national numerical limits for pollutants found in sewage sludge based on three exposure pathways; air, ground water, and ground water/surface water. The Agency would consider the aggregate risk to the population as a whole, the risk to average exposed individuals and populations, and the risk to highly exposed individuals and populations before establishing numerical pollutant limitations and management practices for surface disposal sites. The first set of national numerical limits will be established for surface disposal sites without a liner. The models used for establishing limits and the assumptions used for these models are similar to those used to derive the monofill limits with certain modifications described below. EPA believes such an approach is reasonable in view of the similarities in likely environmental effects between disposal of sludge disposed on surface sites and in monofills. The second set of national numerical limits will be derived using many of the same assumptions as for monofills except the Agency will assume that the surface disposal site has a liner. The Agency requests comments on the approach of having two sets of national numerical limits and on what type of liners should be assumed in the models to derive the second set of national numerical limits.

The second tier would apply to those surface disposal sites receiving sewage sludge that contains any pollutant exceeding the national numerical limits established for the first tier. For those surface disposal sites, the owner or operator of the site or treatment work (if different from that of the surface disposal site), may submit site-specific data to EPA to use in calculating alternative pollutant concentrations for that particular site.

The three exposure pathways that will be modeled by the Agency to establish national pollutant limits or calculate alternative, case-by-case pollutant concentrations (using site-specific data) for surface disposal sites are listed below.

Pathway #12A—In exposure Pathway #12A, the Agency will evaluate the exposure of an individual inhaling vapors of any volatile pollutants that may be in the sludge stored or disposed at a surface disposal site. The individual is assumed to be living next to the site and inhaling the vapors for 70 years.

The vapor pathway assumes that the total amount of chemical in sludge stored or disposed at the site each year would either degrade, leach out or vaporize during that year. Thus, the allowable pollutant mass in the sludge is equal to the flux (mass of chemical per unit area per unit time) that may be allowed to enter the atmosphere without exceeding the allowable pollutant concentration in the air. This concentration corresponds to the RfD for non-carcinogens, or a risk specific dose for carcinogens. A plume model is used to relate the flux to the resulting pollutant concentration in the air. The allowable flux is determined by (1) the allowable pollutant concentration in the air, (2) the size of the sludge surface disposal site, (3) the assumed distance of an individual from the site where the air concentration must be attained, (4) the wind speed, and (5) the degree of atmospheric mixing. The wind direction is assumed never to change, so that the individual always remains in the center line of the plume.

Pathway #12W—In exposure Pathway #12W, the Agency will evaluate the exposure of individuals who would obtain their drinking water from ground water located near a surface disposal site. The exposed individual is assumed to be consuming 2 liters of water per day over a 70-year lifetime.

The leachate concentration formed in the sludge-soil layer is related by a partition coefficient and to the extent of "mounding" in the water table beneath the surface disposal site. In moving down through the unsaturated zone, the peak leachate concentration is reduced by the modeled processes of vertical dispersion (primarily caused by detention of sorbed pollutant), chemical degradation, metal precipitation, and mounding.

The allowable pollutant loading rate is thus determined from the MCL, RfD or risk-specific dose, the rate of decay of a pollutant, and other factors that affect either the time period for decay or the dispersive smoothing of the peak concentration. These other site-specific factors include the recharge or infiltration rate, hydraulic characteristics of the soil, depth to groundwater, and the chemical partition coefficient.

Pathway #11W—The ground water/surface water pathway will be used by the Agency to protect beneficial use of surface waters by determining the pollutant concentration in the ground water that would not exceed a Water Quality Criterion for a pollutant if the ground water enters a relatively small stream. Water Quality Criteria are designed to protect human health, assuming exposure through consumption of drinking water and resident fish, and to protect aquatic life. Here the individual is exposed over a 70-year lifetime, consuming 2 liters of contaminated drinking water and 6.5 grams of fish per day.

In Pathway #11W three routes of exposure are considered; ingestion from drinking contaminated surface water by humans, exposure to aquatic life inhabitating contaminated surface water, and human ingestion of tainted fish taken from contaminated surface water. The concentration of pollutant entering the ground water from the surface disposal site is determined using the same type of analysis as described above in Pathway #12W except the analysis is based on the distance to the surface water and not the location of the exposed individual. Once the pollutant reaches the surface water a cascading cells model is used to simulate fate and transport of each pollutant through the surface water to the exposed individual.

National Limits vs. Case-By-Case Limits—As discussed earlier, when EPA uses the exposure assessment models to establish national numerical limits, site-specific numerical limits may be established on a case-by-case basis when the physical parameters at a surface disposal site differ from those used in the model to derive the national limits. In developing two sets of national limits EPA will use the three exposure pathways (Pathways #11W, #12A and #12W), with and without a liner, described above. The owner or operator (or applicant) will use these same pathways with site-specific data for the surface disposal site if the pollutant concentrations of the sewage sludge to be stored or disposed of in the site exceed the national pollutant limits.

Using an EPA approved model and the site-specific parameters, the applicant will calculate and the Agency will review alternative pollutant concentrations for the surface disposal site. This approach does not, preclude the applicant from incorporating into the model the site's artificial characteristics (e.g., a liner different from the liner used by the Agency to establish Tier I numerical limits) in addition to its natural characteristics (e.g., a natural clay liner). The site-specific numerical limits are thus capable of being modified to account for the effect of containment measures such as liners.

If the sewage sludge that a treatment work wishes to place in a surface disposal site continues to exceed the national numerical limits or the site-specific numerical limits calculated on a case-by-case basis, the treatment work must either reduce the concentration of the pollutants through more stringent local pretreatment limits or find an alternative way of managing the sewage sludge.

2. Definition of Surface Disposal Sites

For the purpose of revising the part 503 rule for surface disposal sites to a two tiered risk-based approach, the Agency would redefine "surface disposal" to mean the final disposal of sewage sludge in uncovered pits, ponds, lagoons or impoundments. Accumulation of sewage sludge during wastewater treatment would not be included under this definition. The land application, distribution and marketing, and the disposal of sewage sludge in covered landfills are also excluded.

POTWs may store sewage sludge from primary and secondary treatment processes in on-site pits, ponds and lagoons with the intention of later removing the sludge for final use or disposal. The frequency of this periodic removal from long-term storage in surface disposal sites will vary depending on the site. Any remaining sewage sludge and associated contamination will also be removed when the storage site is closed. The length of time the sewage sludge is stored (i.e., the frequency of sludge removal from the site) may affect the mobility of sludge contaminants and subsequent environmental impacts. Surface disposal sites that deposit sewage sludge in on-site pits, ponds, lagoons or impoundments for extensive periods of time with no plans for removal are surface disposal sites being used for the purpose of permanent disposal of sewage sludge. The Agency requests comment on what time period should be adopted to distinguish surface disposal from treatment or storage.

3. Management Practices

In order to ensure environmentally sound disposal of sludge on surface disposal sites, in EPA's current thinking the following management requirements should be adopted for surface disposal sites:

1. All public access to the site must be restricted; and
2. Sewage sludge surface disposal sites are required to have berms, dikes or other surface runoff controls, and to use good design practices at closure.

EPA solicits comments on these requirements and suggestions for others as appropriate.

Request for Comments

The Agency is considering revising its 98-percentile approach proposed for sewage sludge surface disposal sites to an approach similar to the approach proposed in the part 503 rule for sewage sludge monofills. The Agency believes that this will afford these sites a greater degree of human health and environmental protection, and flexibility in complying with the use and disposal standards. The Agency is requesting public comments on the revised approach, its requirements and assumptions, protectiveness, administrative feasibility, and implementability.

Further, if the Agency finds that most all surface disposal sites can meet the Tier I national numerical pollutant limits, it may not ultimately promulgate Tier II. In addition, if the final Tier I numerical limits for surface disposal sites are the same as for monofills the Agency may combine the two practices. The Agency requests public comment on these alternatives.

Revised Approach for Regulating Distribution and Marketing and Agricultural Land Application (Subpart E)

For the proposal, the Agency developed numerical limits and required management practices to protect highly exposed individuals from high levels of pollutants found in sewage sludge distributed and marketed for home garden use and applied to agricultural land.

Scientific peer review and public comments questioned many of the conservative assumptions, supporting data, and the risk assessment methodology used to establish numerical pollutant limits for distribution and marketing (D&M), as well as related agricultural land application of sewage sludge. As a result, today the Agency is requesting comments on revisions to certain assumptions, data, and aspects of the risk assessment approach for deriving numerical pollutant limits for sewage sludge distributed and marketed for home garden use and applied to agricultural land.

Approach in the Proposed Rule

The numeric limits, management practices and other requirements in the part 503 proposal for agricultural land application would apply to anyone who spreads liquid, dewatered, dried or composted sewage sludge on or just below the surface of land. As defined for purposes of the regulations, agricultural land is land to which sewage sludge is applied in order to use the nutrient and soil conditioning properties of sewage sludge for crops which are intended for direct or indirect human consumption or for animal feed for animals intended for human consumption. This definition would include land used as pasture for the grazing of animals. Distribution and marketing of sludge, on the other hand, is defined as the give-away or sale of sewage sludge or a product derived from sewage sludge, either in containers (e.g., bags) or in bulk form, by owners or operators of treatment works or by a person who receives sewage sludge from treatment works. Examples of agricultural use include the growing of crops for human and non-human food-chain use. In a typical D&M program, sludge products are sold or distributed free to commercial growers, landscaping firms, parks, highway departments, cemeteries and the public. A description of the proposed numerical limitations and management requirements for sludge that is land-applied to agricultural land is found at 54 FR 5796–5804, 5878–5880, 5894–5895, and for sludge that is distributed and marketed at 54 FR 5807–5813, 5880–5883, 5895–5896.

Comments on the Proposed Rule

The Agency strongly supports the beneficial reuse of sewage sludge. Improving land productivity through use of the soil conditioning and nutrient properties of sewage sludge has advantages beyond those directly associated with applying sewage sludge to land. Additional benefits are realized from a reduction in the potentially adverse human health effects of incineration, a decreased reliance on commercial chemical fertilizers and a reduction in energy costs associated with incineration. The Agency will continue to enthusiastically promote and encourage the recovery and reuse of sludge wherever its safe environmental

use is possible. Therefore, EPA is carefully analyzing the comments on the proposed approach from scientific peer review and the public that support the Agency's policy of beneficial reuse.

Many respondents questioned the appropriateness of the assumptions, models and data used in the risk assessments for D&M and agricultural land application practices. Their comments focused on the following areas: selection of exposure pathways; MEIs used for each pathway; parameters used in the transport models and the models used; screening and selection of data for each contaminant and pathway; conservative nature of criteria and selection of risk levels; and other assumptions used in the risk assessments. These areas will be discussed in more detail in the section that follows on the "revised approach" on which the Agency is soliciting comments.

Revised Approach for the Final Part 503 Rule

As a result of scientific peer review and public comments, many of the assumptions and data used in the exposure models used to generate numerical limitations for the proposed rule will be changed to reflect more up-to-date information and more realistic exposure scenarios describing the expected conditions in which sewage sludge will be land-applied. The following is a qualitative discussion of the changes the Agency is considering. Comment is solicited on these issues.

1. The Most Exposed Individual

The Agency is reviewing its assumptions for the most exposed individual (MEI) for each pathway to provide a more realistic assessment of potential exposure. In the final rule, the Agency is considering using more "reasonably anticipated" adverse effects associated with sludge exposure to protect public health and the environment. For instance, in the proposal, the target MEI for assessing the environmental effect associated with lead-contaminated earthworms was the duck. The Agency used ducks as a surrogate for prey species because EPA had toxicological effects data on ducks. However, ducks are not physiologically adapted to forage in soil for earthworms, so the Agency is gathering information and data on a more appropriate species to be modeled for this pathway. The Agency will substitute another species which consumes a high portion of its diet from earthworms in the final analysis. Other exposure scenarios that incorporate a low probability of occurrence will also be re-evaluated for possible revision to more realistic assumptions for future assessments of risk to highly exposed individuals, plants or animals, and populations. In addition, the Agency will consider the aggregate risk to the population as a whole and the risk to average exposed individuals and populations before establishing numerical pollutant limitations and management practices for D&M and agricultural land practices.

2. Model Selection

Although many public comments were received concerning the elimination of Pathway #7 (plant phytotoxicity pathway) on the grounds that it was self-limiting, it has been tentatively decided to keep this pathway, as well as the other 13 pathways of exposure described in subpart C of this part that were used in the exposure assessment analysis for the proposed rule. However, new models are being developed for evaluating the aquatic pathways #11 and #12. Commenters suggested that the model selected to simulate transport in surface run-off was over simplistic (e.g., the universal soil loss equation for run-off and erosion). The saturated flow model, AT-123D, was also criticized for being poorly documented and unvalidated. In addition, a more realistic model for air dispersion is being considered for SLUDGEMAN. However, the Agency has not made a final decision on which models it will use and is requesting public comment on which models are most appropriate.

3. Screening and Selection of Data

The Agency is considering corrections in the data used for individual pollutants and pathways, particularly Pathways #1 through #9 in order to replace flawed data with more appropriate and scientifically sound information. The changes being considered are discussed below.

Daily Dietary Intake—More realistic human dietary exposure scenarios are being considered for use in calculating human food-chain risk from consuming plant or animal products that have been grown or raised on sludge-amended fields.

The Technical Support Document (TSD) for the proposed rule used the highest consumption for all age and sex groups to represent the human diet from 0 to 70 years (see Reference number 9). As a result, the diet of the teenage male (14–16 years of age) was used to represent the consumption of grain, potatoes, root vegetables, dairy products and dairy fat, and the diet of the adult female (25–30 years of age) was used to represent lamb and lamb fat consumption. Consumption of legumes, garden fruits, beef, beef fat, poultry, poultry fat, pork and pork fat was represented by the data for adult males (25–30 years of age). The diet of the adult male (60–65 years of age) was used to represent consumers of beef liver, beef liver fat and eggs. Depending on whether the pollutant being evaluated was organic or inorganic, either total meat consumption or only meat fat was considered in the evaluation. It was assumed that the metals would collect in the total tissue mass, but organics would be found only in the lipid portion of the exposed individuals' tissues.

Comment was provided suggesting that the additive effects of these conservative choices yielded an "unreasonably worst-case" MEI that was totally unrealistic. Therefore, the Agency is considering more realistic values representing a lifetime average consumption for both sexes analyzed for each food group.

Such an approach would involve integrating the consumption rates for each sex over their lifespan and calculating a time weighted, lifetime average value. This results in a difference in daily consumption rates of between 52 to 75 percent depending on the food group. This would allow for an increase in annual pollutant loading rate limits of 1.3 to 1.9 based on changes to this element of the risk assessment.

Plant Uptake and Phytotoxicity—In the risk assessment performed for the proposed rule, phytotoxicity and plant uptake data was chosen based on a selection hierarchy. This hierarchy grouped data from most preferred (i.e., "most like the conditions being regulated") to least preferred (i.e., "least like the expected conditions to be regulated"). Therefore, the most preferred studies to extract data points from were performed under sludge/field conditions followed by sludge/pot conditions and the least preferred, were pure organic compounds or salt/pot studies.

Numerous public comments were received on this approach. The majority stating that the use of salt or pot studies was an "unreasonably worst-case" situation which would drastically overestimate plant uptake and phytotoxicity of sludge pollutants. Studies using salt spikes, instead of sludge, result in greater bioavailability of the metallic pollutants, because they are not bound to an organic matrix and are, therefore, more freely taken up by plant roots.

Likewise, greenhouse studies, where plants are grown in pots are known to often overpredict uptake compared to

field conditions. This is because pots tend to restrict the area of root growth and the small amount of contained soil tends to concentrate and retain the sludge pollutants around the roots, thus accelerating uptake. Under field conditions, precipitation can leach pollutants into the soil profile, so that they are less available to the plants. In fact, there are numerous differences between the pot and field environments, such as the molecular form of the pollutant under consideration.

Furthermore, some respondents believed that this pathway should not even be evaluated, because it is essentially self-limiting. If a particular quality of sludge caused phytotoxic effects, such as yield reductions, farmers and the public would cease using it. The Agency thought it was important, however, to continue to model these effects even if they could become self-limiting, because they could cause harmful effects and economic losses initially before these effects could be observed. In addition, sludge could be applied to areas that do not have commercially valuable plant species but could still have pollutant sensitive plant species that exhibit phytotoxicity resulting in secondary environmental impacts such as erosion.

In the final rule the Agency has tentatively decided to use, in all possible cases, field data derived from stabilized sludge to develop transfer coefficients for these pathways. Much of this field data was provided by scientific peer review and public comment on the proposed rule. This approach if adopted should result in more realistic values and higher allowable sludge application rates and higher pollutant loading rates for the actual sludge-field conditions regulated. The Agency believes that this analysis will show less pollutant uptake in crops as well as a lower incidence of plant phytotoxicity.

No Effect Data—Most low-dose extrapolation models are linear and assume a response to a stimulus, no matter how small. However, such non-threshold behavior is not often observed in nature. Many public comments were received about the Agency's failure to enter "no effect data" into the models used to extrapolate an effect for the previously performed risk assessment. Research results were also submitted by the public demonstrating that the use of sludge-borne metals in field studies using biologically-processed sludge often result in plant tissue metal concentration insignificantly different from controls. Therefore, the highest sludge metal application rate that caused no significant field reduction would probably be a valid limit for the purposes of evaluating phytotoxicity.

Failure to take into consideration field demonstration of "no effect data" for purposes of evaluating the phytotoxicity effects of copper and zinc, and the uptake of PCBs in the calculation of numerical limitations for the proposed rule skewed the loading rates so that they were more conservative than necessary. For instance, copper applied as copper sulfate will not react the same in soil as copper in a sludge matrix. Copper sulfate is readily available to be taken up by plant roots, unlike copper bound in the sludge matrix which is not as bioavailable.

The Agency is considering incorporating "no effect data" for many of the organic compounds and some inorganic compounds for the pathways utilizing soil to plant transfers, i.e., Pathways #1, #1F, #3, #5 and #7. Additionally, such data could also be used to develop soil to animal transfer coefficients and soil to biota coefficients (Pathways #4, #6, #8 and #9), where possible. If there are field or epidemiological data that indicate the existence of a "no effect" level or there is reason to believe there is a threshold, then instead of relying on non-threshold linear models, the Agency is considering examining the data base to see if a NOAEL (No Observed Adverse Effect Level) or LOAEL (Lowest Observed Adverse Effect Level) could be used as a means of deriving a maximum allowed concentration or loading.

PCB Evaluation—For agricultural land application, the most limiting pathways for PCBs were Pathways #3 (sludge-soil-plant-animal-human) and #4 (sludge-soil-animal-human). These pathways are highly dependent on the diet model used, the fraction of sludge/soil in the diet of the grazing animal, the slope of the plant/soil response curve, and the uptake slope of PCBs in animal fat for animal products in the human diet.

Many public comments were received about the derivation of limits for Pathways #3 and #4 because of the soil to plant transfer coefficient used. The PCB transfer coefficient value is 10-fold greater than other transfer coefficient values found in Table 4–20 of the Land Application Technical Support Document which suggested that this was potentially unique data (see Reference number 9). Information received during the public comment period suggested that this high uptake value for fescue reported by Strek and Weber (1980) was from a study performed using conditions not expected for usual agricultural application (see Reference number 10). The study was done with sandy soil containing very little organic carbon. If the study had been performed on normal agricultural land the organic carbon content would have been greater and would have provided an organic binding site for PCBs making them less bioavailable for plant uptake. Furthermore, very high concentrations of the PCBs were added as a pure compound to only 300 grams of soil in a shallow styrofoam cup. This would overpredict plant uptake of the compound when compared to plants grown in sludge under field conditions which allows for expansion of the roots.

Recently, additional studies of PCBs in sludge were undertaken using Madison, Wisconsin, aged-sludge containing 52 ppm total PCBs. Greenhouse pot studies of plant uptake of PCBs by tall fescue (O'Connor, 1989) showed no detectable PCB residue regardless of the PCB application rate (see Reference number 11). From this work, the highest slope would have been less than 0.02. However, based on non-detection of PCBs in the fescue, the uptake slope is zero. Taylor (1988) studied the same sludge in the field with corn grain (see Reference number 12). No detectable PCB residue was found at any rate of application, so again the uptake slope would be zero. In the land application TSD for the proposal, the uptake slope of 0.25 selected from the report by Strek and Weber (1980) on tall fescue uptake of PCB (see Reference number 10) is at least 12.5-fold too high, but possibly 125-fold too high or more. The result of using more appropriate data to evaluate the expected conditions being regulated shifts the controlling pathway for PCBs to Pathway #4. This direct ingestion pathway allows the greatest transfer of sludge-absorbed organics into animals (see Reference number 13).

Pathway #4 requires that the amount of animal fat or fat products which individuals consume over their 70-year lifetime be estimated to allow calculation of the maximally allowed PCB concentrations in sludge which grazing livestock can ingest from the soil surface on adhering forage crops. Since only grazing animals were being evaluated, only the fat portion from beef (both meat and dairy products) and sheep products were included in the analysis. The Land Application Methodology (see Reference number 14), as well as the Technical Support Document (see Reference number 9), for the proposed rule used the highest consumption of food for each age and sex for each food group analyzed. Although these documents clearly stated

that the highest consumers of dairy fat were 6–11 month-old children (39.2 grams, dry weight per day) there was an input error for the RAMMS model and the data for the teenage male (29.7 grams, dry weight per day) was used by mistake. A comparison of the daily dietary consumption calculated by the new method indicated a factor of 1.85 between the new lifetime estimate, described previously, and RAMMS or 2.14 between the newly calculated lifetime estimate and the Technical Support Document. The later method is being considered for use in the risk assessment for the final rule.

The response slope for PCBs uptake (UA) in beef tissue used in the proposal's risk assessment to evaluate the effects of this chemical on animals ingesting sludge-amended soils was taken from a 1973 study by Fries (see Reference number 15). Several public comments were received stating that the pure compound used in these feeding trials may not be appropriate for evaluating the risk from the low concentrations of PCBs expected in sludges ingested by livestock. Several studies involving direct feeding of sludge or grazing on sludge-amended pastures have shown no hazards from PCBs based on PCB uptake, Multiple Function Oxidase activity, or histopathology.

During sludge feeding studies sponsored by Denver, several sludges were fed to beef cattle for up to 270 days (see Reference number 16). PCB levels in the sludges, and in the animals' diet and fat were analyzed. The results showed that bioaccumulation factors were less than 2 rather than the 4 measured by Fries. There is reason to believe that the bioaccumulation factor might even be lower if lower PCB-containing sludges had been used in the Denver studies. Therefore, the Agency is considering changing the UA value from 4 to 2, reducing the response slope value by a factor of 2.

Fraction of Food Groups Derived from Sludge-Amended Soil—The value representing the fraction of animal product food groups derived from sludge-amended soil (FA) in the proposed regulations was estimated as an average percent of the annual consumption of food which is homegrown by rural farm households. This data was calculated from U.S. Department of Agriculture Sources (USDA, 1966) and is found in Table 4–14 of the Land Application Methodology. The exposed individual in this assessment was conservatively assumed to consume 44 percent of meat and 40 percent of dairy products from farms raising livestock on sludge-amended soil.

Scientific peer review and public comments submitted to the Agency on the proposal also indicate it is likely that current data on food consumption by rural farm families may show a lower fraction of locally grown livestock consumed by the highest consuming families. Furthermore, the Scientific Peer Review Committee on land application noted that in any one year, the maximum fraction of a farm treated with sludge may be 33 percent, rather than the 100 percent assumed in the proposed analysis. No final values have been selected at this time, but the Agency is considering lower numbers for these parameters for use in the final rule's risk assessment.

Grazing Animal Consumption of Sludge From Foraging Activity—The Land Application Peer Review Committee considered that eight percent sludge ingestion assumed for Pathways #4 and #6 in the risk assessment methodology for the proposed rule was too high based on chronic sludge ingestion by cattle in field studies of sludge or compost surface application to growing pasture. The committee recommended that 2.5 percent sludge in the diet should have been used. In this pathway, grazing livestock ingest 2.5 percent sludge (season long average) when continuously grazing pastures amended with sludge 30 days before the animals entered the field. Over time, the freshly applied sludge will become mixed with the previously applied sludge on the soil surface. The Agency now believes that grazing livestock can ingest the sludge on the soil surface, but the rate of ingestion is significantly less than the 2.5 percent sludge used for the adherence pathway. Pathway #4 risk cannot increase with time (as cumulative sludge application increases) since the first application provides the maximum chronic risk from sludge ingestion. Cessation of application reduces the fraction of diet from 2.5 percent to lower levels.

The 2.5 percent ingestion does not take into consideration the observation that sludge is not applied on 100 percent of a farm in each year. Thus, the fraction of sludge in the diet is lower because adhering sludge significantly exceeded sludge ingested from the soil surface in season-long grazing studies with sludge (see Reference number 17). The Land Application Peer Review Committee found some evidence that a reasonable worst case would be 33 percent of a farm field receiving sludge in any year. Using one percent sludge ingestion during non-application periods (⅔ of time), and 2.5 percent ingestion during sludge application periods (⅓ of time) yields a long term average of 1.5 percent sludge in the grazer's diet. If EPA adopted these values, this would allow for an increase in annual pollutant loading rate limits of 3.2 to 5.3 based on changes to this element of the analysis for agricultural land application of sewage sludge.

Soil Background Levels—In the proposal, a median inorganic pollutant concentration in agricultural soils was used to represent the national background levels for metals, whereas zero was used to represent the background levels of organics, since only incremental risks for carcinogenic organic pollutants over background were considered. In addition, most organics being regulated have relatively short half-lives of less than a year and would volatilize or degrade between sludge applications.

Public comments and scientific peer review generally support the use of the Holmgren (1985) data base for metals, but objected to the zero organic background assumptions on the grounds that it was not sufficiently protective (see Reference number 18). They stated that although many of the organic chemicals being evaluated do not persist for long periods of time in soil, some of the others, particularly the chlorinated insecticides (i.e., dieldrin, chlordane and DDT) do. In some cases, the background levels of these insecticides in agricultural soils (rarely found urban settings) can approach the concentrations found in sewage sludges. They suggested that the Agency should utilize available data on the background levels of these organic compounds instead of assuming a value of zero. EPA is currently seeking information to complete the data base on these organics and the results may be incorporated into the final rule.

Relative Effectiveness of Exposure—The relative effectiveness of exposure value (RE) as used in the algorithms for agricultural or D&M practices is a unitless factor that shows the relative toxicological effectiveness of an exposure by a given route when compared with another route. For example, carbon tetrachloride and chloroform were estimated to be 40 and 65 percent as effective when absorbed, respectively, by inhalation as by ingestion. In addition to route differences, RE can also reflect differences in the exposure conditions, e.g., absorption of nickel ingested in water has been estimated to be five times greater than when ingested in food.

It is widely recognized that the RE factor should only be applied where well-documented and referenced information is available on the contaminant's pharmacokinetics. When such information is not available, RE is equal to 1. Since this data was not sufficiently well-documented at the time of proposal, all of the RE factors used in the risk assessment were assumed to be 1. Objections to using the value of 1 for RE was expressed in the public comments and the scientific peer review on the grounds that it is overly conservative. They noted that this assumption implies that there are no observed differences in absorption among various exposure routes and that 100 percent of a pollutant from an exposure route is absorbed and taken up by the target tissue. They urged the Agency to try to develop more reasonable estimates of the RE value for the various exposure routes.

A more extensive literature search is underway to identify the correct values. For example, studies by Hinesly et al. (1985) in which female chickens were fed diets containing three levels of biologically incorporated cadmium demonstrated that after 80 weeks the hens retained only 1.3, 0.98 and 0.87 percent of the total ingested cadmium (see Reference number 19). Similar results were obtained from studies with pheasant and sows (see Reference numbers 20 and 21).

Soil Ingestion Rate For Children—The Land Application TSD used an estimated soil ingestion rate of 0.1 grams of soil per day (see Reference number 9). Comments were received on both sides of this issue. Some respondents stated that the rate was too high, while others felt it was too low. Several programs within the Agency have examined this issue and supported research efforts to resolve it. A recent directive from the Agency's Office of Solid Waste and Emergency Response suggested a range of soil ingestion rates for children of 0.1 to 0.2 grams per day and has selected 0.2 grams per day as a best estimate of daily soil ingestion by children (see Reference number 22). The Agency has tentatively concluded that 0.2 grams per day is the appropriate value for developing these regulations and requests further comment on this issue.

The Scientific Peer Review Committee on land application recommended that 0.5 grams per day soil ingestion (at the 95th percentile) would be a more responsible worst-case exposure level for children. However, after further evaluation, the committee agreed that this is an over-estimation of chronic risk associated with PCBs as compared to shorter term acute risk from lead soil ingestion if the exposure is for 5 years. The Agency believes that using either 0.2 grams per day for 5 years or 0.5 grams per day for 2 years will result in the same amount of exposure and will be suitable for modeling children at higher risk. The Agency requests public comment on this assumption. In addition, the Agency solicits comments on using an average soil ingestion rate (0.1 grams per day) to estimate average exposure levels.

4. Fifty Metric Ton Per Hectare Limit

The proposed regulations limited sludge applications to agricultural lands to no more than 50 dry metric tons per hectare (mt/ha). This approach was used because the model lost linearity at higher loading amounts and could not be used in the rule for calculating the number of years that sewage sludge of a certain quality may be applied to the agricultural land at rates that do not exceed the cumulative application rate for each inorganic pollutant.

Many public comments were received objecting to this limitation which they saw as "arbitrary" and not having any scientific justification. They pointed out that there may be cases where sludge has a low nitrogen content and would require a rate greater than 50 mt/ha application rate to meet the nutrient requirements for a specific crop. The Agency understands these concerns and is attempting to revise the model so that this limit can be raised to levels necessary to meet the nitrogen needs of crops, but without exceeding the health-based cumulative limits.

5. D&M Labeling Requirements

The proposed rule required that when sludge is distributed and marketed it must have a label affixed to the product or an information sheet accompanying the product that lists the nitrogen content and pollutant concentrations.

The Agency received several comments from the public and scientific peer review committee on this issue. In general, the consensus was that this type of information would have no useful purpose to the general public, but would merely cause undue confusion or alarm about the perceived hazard from using these products.

Concern about the effects these actions would have on beneficial reuse has caused the Agency to reconsider this labeling requirement for all 22 pollutants. However, it is still thought that information about the nutrient value of the product is essential for proper use by the user. The Agency is considering not requiring that the contaminants and their concentrations be listed on the bag or handout. However, they must be made available to interested parties who inquire by phone or mail about their presence and concentrations. For that reason the label will require a statement saying that a listing of the trace elements and their concentrations in the product are available from the generator or manufacturer whose name, address and phone number will be provided. The nitrogen (N) and phosphate (P_2O_5) content of the D&M product would also have to be listed on the label or handout.

6. Regulation of Banned Chemicals

The proposed regulation established numeric criteria for several chemicals which have been banned or severely restricted by the Agency since the 1970's (e.g., aldrin/dieldrin, chlordane, DDT, lindane, PCBs and hexachlorobutadiene). Scientific peer review and public comments suggested that these compounds be exempt from the rule for all use and disposal practices if they are shown not to be present in current sewage sludge in sufficient amounts to pose a significant risk to human health and the environment. Furthermore, they felt it was not reasonable for treatment works to have to go to the expense of analyzing for the presence of chemicals that are totally absent or seldom found in more than exceedingly small concentrations.

The Agency is currently reevaluating the necessity for regulating these banned chemicals if they are found to be no longer present in sewage sludge or only is insignificant amounts. The data from the recent National Sewage Sludge Survey and recalculated numerical criteria will be analyzed to determine whether it would be advisable to drop these chemicals from the part 503 rule.

7. Anticipated Impacts and Conclusions

Table II E-1 describes the differences in the individual pathway loading rates between the values used in the land application TSD for the proposed regulations and the preliminary values calculated if EPA were to adopt new methods proposed for comment. The changes in these values show what would be the effect of the new data and revised assumptions if used in the calculation of numerical limitations in EPA's models. These changes, as reflected in Table II E-1 include use of no effects data, plant uptake data from sludge-field studies, revised human dietary scenarios and new information on pollutant bioavailability and bioaccumulation.

TABLE II E-1.—COMPARISON OF TSD AND PRC ESTIMATED SLUDGE APPLICATION LIMITS FOR CU, ZN, NI, CR, PB, CD, AS, AND HG

Pathway	TSD limit	Preliminary draft limit
	Maximum allowed kg Cu/ha	
5:Sludge soil plant animal	153	(1)
6:Sludge soil animal	458	3930
7:Sludge soil plant	46	1160
8:Sludge soil soil biota	224	1200
	Maximum allowed kg Zn/ha	
7:Sludge soil plant	172	2750
9:Sludge soil soil biota	452	2600
	Maximum allowed kg Ni/ha	
7:Sludge soil plant	78	500
1F:Sludge soil plant animal	206	>>500
	Maximum allowed kg Cr/ha	
7:Sludge soil plant	530	(2)
12:Sludge soil groundwater human		(2)
	Maximum allowed kg Pb/ha	
9:Sludge soil soil biota predator	125	>1000
7:Sludge soil plant	-	>>1000
1F:Sludge soil plant human	195	>1000
2F-Agr:Sludge soil human	378	580
2F-D&M:Sludge human	378	300 mg/kg
1:Sludge soil plant human	1190	>>1000
	Maximum allowed kg Cd/ha	
1F:Sludge soil plant human	18.4	(3)
7:Sludge soil plant	178.0	>20
9:Sludge soil soil biota predator	-	>20
	Maximum allowed kg As/ha	
1:Sludge soil plant human	6960	(4)
1F:Sludge soil plant human	382	(4)
2F:Sludge human	14	1628
	Maximum allowed kg Hg/ha	
3:Sludge soil plant animal human	14.9	(4)
2F:Sludge human	38.9	(4)
1F:Sludge soil plant human	110.0	(4)
4:Sludge soil animal human	1000.0	(4)
1:Sludge soil plant human	2000.0	(4)
1M:Sludge "soil" mushroom human	-	(4)

[1] At least 2390.
[2] No basis.
[3] Near correct.
[4] Analysis not complete.

These numbers are preliminary and only indicate the direction that changes in pathway loading rates may take. The impact of these changes on the pathway loading rates for inorganic pollutants varies from no change (in the case of cadmium) to approximately 116 times (in the case of arsenic). These values are only examples and do not reflect changes in human diet, which would affect Pathways #1, #1F and #3, and therefore should not be used to predict final numerical criteria for these pollutants. Final numerical limitations will be developed after consideration of all the data and comments the Agency receives.

In summary, the Agency believes that adoption of the revisions described above could increase the numerical limits for D&M and agricultural land application practices by factors of 1 to 125 for pollutants regulated under part 503. Revisions to the MEIs, fraction of diet impacts, bioavailability of pollutants, new parameters and models for the exposure pathways, and other revisions previously discussed could also alter the pollutant limits. Based on assessment of data to date, the Agency believes the revised pollutant limits would still protect public health and the environment against reasonably anticipated adverse effects.

Request for Comments

The revised approach that the Agency is considering today, as explained above, would change some of the assumptions and data points used in the proposed rule to reflect more current information and more realistic exposure scenarios. The Agency is requesting public comment on this revised approach, its requirements and assumptions, and its protectiveness and implementability. In addition, the Agency is interested in receiving any data the public might have on the selection and screening of data for D&M and agricultural sludge use, as well as models for evaluating ground water and surface run-off impacts.

Alternative Pollutant Limits (Subpart F)

In response to comments on the proposed part 503 regulations, the Agency is considering developing alternative pollutant limits for sewage sludge applied to agricultural or non-agricultural land or distributed and marketed. These alternative pollutant limits are "no adverse effect" pollutant concentrations. As long as the pollutant concentrations in a sewage sludge are equal to or less than the "no adverse effect" concentrations, no restrictions are needed on the amount of the sewage sludge applied to the land. If any of the pollutant concentrations in sewage sludge exceed the "no adverse effect" concentrations, the sludge user or disposer would have to meet the pollutant limits in the proposed part 503 regulations for the applicable disposal method (i.e., annual pollutant loading rates for organic pollutants and cumulative pollutant loading rates for inorganic pollutants when sewage sludge is applied to either agricultural or non-agricultural land or the annual product application rate for a sewage sludge product that is distributed and marketed).

The major advantage of the alternative pollutant limits is that no records on the amount of sewage sludge applied and on cumulative pollutant loads for inorganic pollutants have to be kept when the sewage sludge is applied to agricultural land or to non-agricultural land. Also, an application rate would not have to be specified for a sewage sludge product that meets the alternative pollutant limits when the product is distributed and marketed. Sewage sludge that meets the alternative pollutant limits would still have to meet the appropriate standards in part 503 for pathogen and vector attraction reduction. EPA believes that not having to keep records on the amount of sewage sludge and the amount of inorganic pollutants applied to the land would encourage the beneficial reuse of sewage sludge.

Approach in the Proposed Rule

The pollutant limits in the proposed part 503 regulations for sewage sludge applied to agricultural land include annual pollutant loading rates (APLR) for organic pollutants and cumulative pollutant loading rates (CPLR) for inorganic pollutants. These loading rates are based on the results of a pathway exposure analysis and are established at a level that protects human health and the environment from any reasonable anticipated adverse effects of pollutants in sewage sludge. The Agency's current thinking is that the final part 503 regulations also will contain annual pollutant loading rates for organic pollutants and cumulative pollutant loading rates for inorganic pollutants. EPA anticipates, however, that the values for the loading rates in the final regulation will be different from the values for those rates in the proposal because of modifications now under consideration to the input parameters for the risk assessment models used to develop the pollutant loading rates.

The following equation relates the annual whole sludge application rate for a sewage sludge to an annual pollutant loading rate:

$$AWSAR \times \frac{APLR}{C \times 0.001} \quad (1)$$

Where:
AWSAR = Annual whole sludge application rate in metric tons per hectare per 365 consecutive-day period.
APLR = Annual pollutant loading rate in kilograms per 365 consecutive-day period.
C = Pollutant concentration in milligrams per kilogram of total sewage sludge solids.

The *limiting* AWSAR for a sewage sludge is the smallest of the AWSARs calculated using the annual pollutant loading rates for organic pollutants promulgated in the part 503 regulations and the actual pollutant concentrations measured in the sewage sludge in equation (1). If sewage sludge is applied to agricultural land at an annual rate higher than the *limiting* AWSAR, one or more of the part 503 APLRs will be exceeded.

The cumulative pollutant loading rates for inorganic pollutants in the proposed part 503 rule for sewage sludge applied to agricultural land are not annual rates. They are the maximum amount of an inorganic pollutant that can be applied to a land application site. Records have to be kept on the amount of an inorganic pollutant applied to a site. Under the proposal, when the cumulative load for any of the inorganic pollutants is reached, sewage sludge could no longer be applied to the site.

The pollutant limits in proposed part 503 for sewage sludge applied to non-agricultural land are pollutant concentrations that can not be exceeded. If any of the pollutant concentrations are exceeded, the sewage sludge can not be applied to non-agricultural land. EPA anticipates that the pollutant limits in the final part 503 for sewage sludge applied to non-agricultural land will consist of annual pollutant loading rates for organic pollutants and cumulative pollutant rates for inorganic pollutants instead of pollutant concentrations. These rates will be based on the results of a pathway exposure analysis and will be established at a level that protects human health and the environment from any reasonable anticipated adverse effects of pollutants in sewage sludge.

The pollutant limits in proposed part 503 for a sewage sludge product that is distributed and marketed are a series of pollutant concentrations. Those concentrations were calculated using the annual pollutant loading rate for each pollutant, which is based on the results of a pathway exposure analysis, and annual product application rates in the following equation:

$$C = \frac{APLR}{\text{Annual Product Application Rate} \times 0.001} \quad (2)$$

Where:
C = Pollutant concentration in milligrams per kilogram of total sewage sludge solids.
APLR = Annual pollutant loading rate in kilograms per hectare per 365 consecutive-day period.
Annual Product Application Rate = The amount of a sewage sludge product applied in metric tons per hectare per 365 consecutive-day period.

The proposed part 503 rule requires that the concentration of pollutants in a sewage sludge product that is distributed and marketed shall not exceed the pollutant concentrations in the proposal for the appropriate annual product application rate. Appendix B in the proposal explained the procedure used to determine the appropriate annual product application rate for a sewage sludge product. EPA anticipates that the pollutant limits in the final part 503 for a sewage sludge product that is distributed and marketed will be annual pollutant loading rates instead of a series of pollutant concentrations. A procedure to determine the annual product application rate of the sewage sludge product that does cause any of the annual pollutant loading rates to be exceeded will be included in an appendix to the final part 503.

Alternative Pollutant Limits

The basis for the alternative pollutant limits is that if the pollutant concentrations in a sewage sludge are all equal to or less than the "no adverse effect" concentrations, no restrictions, with the exception that sewage sludge applied to the land not cause the nitrogen requirement of the crop grown on the land to be exceeded, are needed on the amount of the sewage sludge applied to the land. Several assumptions are made to determine the "no adverse effect" pollutant concentrations.

The first assumption is that the cumulative pollutant load for an inorganic pollutant is applied to a site in one year (i.e., the annual pollutant loading rate equals the cumulative pollutant loading rate). The annual pollutant loading rate for an inorganic pollutant is calculated using one year in the following equation:

$$APLR = \frac{CPLR}{\text{years}} \quad (3)$$

Where:
APLR = Annual pollutant loading rate in kilograms per hectare per year.
CPLR = Cumulative pollutant loading rate in kilograms per hectare from part 503.
Years = The number of years the pollutant is applied.

The APLRs for the inorganic pollutants are used to calculate the "no adverse effect" concentrations for those pollutants.

The second assumption is that the sludge/soil mixture at the application site is 50 percent. Because a hectare of land with a six inch plow layer, which is the depth of plow layer in the risk assessment models used to develop the pollutant loading rates, contains 2000 metric tons of soil, a 50 percent sludge/soil mixture means that the hectare of land has 1000 metric tons of sewage sludge and 1000 metric tons of soil.

To calculate the "no adverse effect" concentrations, the Agency assumed that 1 metric tons of sewage sludge are applied in one year. Thus, the AWSAR for the application site for that year is 1000 metric tons per hectare (dry weight basis).

Using the APLRs for organic pollutants from part 503; the APLRs for inorganic pollutants calculated using the cumulative pollutant loading rates from part 503 and one year in equation (2); and an AWSAR of 1000, a concentration is calculated for each pollutant controlled by the part 503 regulation using equation (1). The Agency would consider these pollutant concentrations to be "no adverse effect" concentrations because they are based on the pollutant loading rates from part 503 and a very conservative AWSAR.

An AWSAR of 1000 metric tons per hectare is conservative because to achieve that rate, 20 inches of a 20 percent solids sewage sludge has to be

applied to the site. EPA does not believe that 20 inches of a 20 percent solids sewage sludge will be applied to a site in any one year. Consequently, the "no adverse effect" concentrations based on that AWSAR also are conservative and thus protective of public health and the environment. Further support for considering those concentrations conservative comes from the results of recent research. In the developing the proposed pollutant loading rates in part 503, the Agency assumed that the availability of a pollutant is linear (i. e., the more of the pollutant applied, the higher the availability). This assumption is based on data for sewage sludges with high pollutant concentrations.

Research results indicate that the availability of a pollutant in a low pollutant concentration sewage sludge is less than linear. This means that a pollutant is available (e.g., for uptake by plants) up to a certain concentration. After that concentration, the availability flattens out and reaches a plateau (e.g., no further uptake occurs in plants). This occurs most likely because of the effect of hydrous iron oxide, organic matter, and phosphate in the mixture of low pollutant sewage sludge and soil. EPA believes that these research results support its tentative conclusions about the conservativeness of the "no adverse effect" concentrations.

The Agency invites comments in today's notice on the results of the research on the availability of pollutants in a low pollutant concentration sewage sludge. Additional data on this subject are also requested.

EPA believes that if the pollutant concentrations in a sewage sludge are all below the "no adverse effect" concentrations, no restrictions (except for the requirement that sewage sludge nitrogen levels applied to the land not exceed the nitrogen requirement of the crop grown on the land) are needed on the amount of the sewage sludge applied to either agricultural or non-agricultural land or distributed and marketed for several reasons.

First, as previously mentioned, the annual pollutant loading rates are established at a level that protects human health and the environment from reasonable anticipated adverse effects of pollutant in sewage sludge. Pollutant concentrations based on those loading rates should provide equal protection to human health and the environment.

Second, the nutrient requirements of crops grown on the land most likely will limit the AWSAR of the sewage sludge to well below 1000 metric tons per hectare. Thus, an AWSAR of 1000 will probably will not be achieved in any one year. A typical AWSAR based on crop nutrient requirements is 11 metric tons per hectare (dry weight basis). At an AWSAR of 11, approximately 91 years (i.e., 1000 divided by 11) are required to achieve a 50 percent sludge/soil mixture.

Third, restrictions on the quantity of sewage sludge applied are not needed to insure that the cumulative pollutant loading rates for inorganic pollutant are not exceeded in one year when the pollutant concentrations in the sewage sludge are equal to or less than the "no adverse effect" concentrations. At the typical AWSAR of 11, the sewage sludge has to be applied to the same site for approximately 91 years for any of the cumulative pollutant loading rates for inorganic pollutants to be exceeded. The Agency believes it is a reasonable assumption that sewage sludge will not be applied to a site at 11 metric tons per hectare per year for 91 years.

Fourth, the risk assessment models used to determine the APLRs for organic pollutants assume first order decay kinetics for those pollutants. This means that when steady state conditions are achieved, there is no "build-up" (i.e., the amount applied equals the amount that decays) of organic pollutants at the site. As long as the annual pollutant loading rate for an organic pollutant, which is the product of the pollutant concentration and the AWSAR, is not exceeded, human health and the environment are protected from the reasonable anticipated adverse effects of organic pollutants in sewage sludge. Considering the "no adverse effect" concentrations are based on an AWSAR (i.e., 1000) that probably will not be achieved in any one year, no restrictions on the amount of a sewage sludge applied are needed to insure the annual pollutant loading rates for organic pollutants are not exceeded when the sewage sludge has pollutant concentrations equal to or less than the "no adverse effect" concentrations.

EPA is considering publishing the "no adverse effect" concentrations as alternative pollutant limits in the final part 503. If the pollutant concentrations in a sewage sludge are all below the "no adverse effects" concentrations, no restrictions will be imposed on the application rate, except the requirement that sewage sludge applied to the land not cause the nitrogen requirement of the crop grown on the land where the sewage sludge is applied to be exceeded, for the sewage sludge when it is applied to the land and no records on the amount of either sewage sludge or inorganic pollutants applied to the land have to be maintained. For a sewage sludge product that complies with the alternative pollutant limits and that is distributed and marketed, no restrictions are placed on the amount of the sewage sludge product applied to land (e.g., an application rate based on the concentrations of the pollutants controlled in Part 503 in the sewage sludge product does not have to be placed on the bag that contains the sewage sludge product). Sewage sludge that meets the alternative pollutant limits still has to meet the pathogen and vector attraction requirements in the Part 503 regulation.

As previously mentioned, the Agency believes that alternative pollutant limits developed using the concept discussed above encourage beneficial reuse of sewage sludge. EPA also believes that the alternative pollutant limits protect human health and the environment from any reasonable anticipated adverse effects of pollutants in sewage sludge because they are based on annual pollutant loading rates obtained from a pathway exposure analysis and on a annual whole sludge application rate (i.e., 1000 metric tons per hectare) scenario that is not likely to occur in any one year.

Request For Comments

In today's notice, EPA is requesting comment on the alternative pollutant limit concept. Specifically, the Agency requests comments on:

- The approach that would be used to develop the alternative pollutant limits (i.e., calculate the "no adverse effect" concentrations using the APLRs from part 503 and an AWSAR of 1000 metric tons per hectare in equation (1)).
- The conclusion that no restrictions, except that sewage sludge applied to the land shall not cause the nitrogen requirement of the land on which the sewage sludge is applied to be exceeded, are needed on application rates when a sewage sludge that meets the alternative pollutant limits is applied to either agricultural or non-agricultural land or distributed and marketed. The values for the "no adverse effect" concentrations will be different for the three use and disposal practices (i.e., application to agricultural land, application to non-agricultural land, and distributed and marketed) because the APLRs for those practices are different.
- The assumption that the cumulative pollutant load for an inorganic pollutant is applied to the land in one year. The one year period is used to convert the cumulative pollutant loading rate to an annual pollutant loading rate, which is used to calculate the "no adverse effect" concentration for an inorganic pollutant.
- The 50 percent sludge/soil mixture assumption that results in using an

AWSAR of 1000 metric ton per hectare per 365 consecutive-day period to calculate the "no adverse effect" pollutant concentrations. Should a different sewage sludge/soil mixture, which would result in a different value for the AWSAR, be used?

• The results of the research that indicate that the availability of the pollutants in sewage sludge is less than linear when the pollutant concentrations in the sewage sludge are low (see Figure 1). Additional data are also requested.

Removal Credits (Subpart G)

As previously explained, many industrial facilities discharge large quantities of pollutants to POTWs, where their wastes mix with wastewater from other industrial facilities, domestic wastes from private residences and run-off from various sources prior to treatment and discharge by the POTW. Industrial discharges frequently contain pollutants that are generally not removed as effectively by POTWs as by the industries themselves.

The introduction of pollutants to a POTW from industrial dischargers potentially poses several problems. The discharges may inhibit or interfere with a POTW's operation, resulting in inadequate treatment of domestic wastes and sewage. Pollutants may pass through the POTW into navigable waters if they are inadequately treated. Finally, even if partially or fully treated by the POTW and removed from the POTW wastestream prior to discharge, these pollutants may settle in and contaminate the sewage sludge, causing a sludge disposal problem.

In order to prevent these potential problems, Congress has directed EPA in sections 307(b)–(d) of the CWA, 33 U.S.C. 1317(b)–(d), to establish pretreatment standards to "prevent the discharge of any pollutant through [POTWs], which pollutant interferes with, passes through, or otherwise is incompatible with such works." 33 U.S.C. 1317(b). Pretreatment standards limit the amount of a pollutant that facilities in an industrial category may introduce into a POTW. Section 307(d), 33 U.S.C. 1317(d).

Congress recognized that, in certain situations POTWs could provide some or all of the treatment of an industrial users wastestream that would be required pursuant to the pretreatment standard. Consequently, Congress established a discretionary program for POTWs to grant "removal credits" to their indirect discharger. 33 U.S.C. 1317(b). The credit, in the form of a less stringent pretreatment standard, allows an increased amount of pollutants to flow from the indirect discharger's plant to the POTW.

Section 307(b) of the CWA establishes a three-part test for obtaining removal credit authority. Removal credits may be awarded only if (1) the POTW "removes all or any part of such toxic pollutant," (2) the POTW's ultimate discharge would "not violate that effluent limitation, or standard which would be applicable to such toxic pollutant if it were discharged" directly rather than through a POTW, and (3) the POTW's discharge would "not prevent sludge use or disposal by such [POTW] in accordance with section (405) * * *". Section 307(b), 33 U.S.C. 1317(b).

EPA has promulgated removal credit regulations in 40 CFR part 403. On April 30, 1986, the United States Court of Appeals for the Third Circuit invalidated certain portion of the then-effective removal credit regulations. *NRDC* v. *EPA*, 790 F.2d 289, 292 (3rd Cir. 1986), *cert. denied*, 479 U.S. 1084, (1987). Among other determinations, the Third Circuit held that, under section 307(b), EPA may not authorize any POTW to grant removal credits to any indirect discharger until EPA promulgates the comprehensive regulations addressing sewage sludge required by section 405 of the CWA. *NRDC* v. *EPA*, 790 F.2d 289, 292 (3rd Cir. 1986).

Congress made this prohibition explicit in the Water Quality Act of 1987 (WQA). While temporarily staying the effect of the Third Circuit's decision until August 31, 1987, section 406(e) of the WQA provides that, after that date, EPA shall not authorize any other removal credits until EPA issues the sewage sludge use and disposal regulations required by CWA section 405(d)(2)(a)(ii).

As EPA explained in the proposed rule (54 FR 5853), upon promulgation of final part 503 standards, POTWs that manage their sludge by the use or disposal methods covered by part 503 may apply to EPA for removal credit authority. EPA may grant that authority to any POTW complying with the procedural and substantive requirements of part 503 and the removal credits regulations.

The statutory scheme of section 307(b) requires sludge use and disposal standards under section 405 before EPA may authorize removal credits. When promulgated, the part 503 will meet the legal requirement for comprehensive sludge regulations under CWA section 405. These standards are the predicate to a determination that an indirect discharge to a POTW is not preventing disposal in accordance with these standards as required by section 307(b). The publication of the part 503 standards alone will not entitle a POTW to removal credit authorization. Removal credits are not authorized before the statutory protective level is achieved. As Senator Stafford, one of the sponsors of the Water Quality Act of 1987 has pointed out (132 Cong. Rec. S16427, daily ed. October 16, 1986):

> * * * Congress intended the existence of sludge regulations, and compliance with those regulations, to be a precondition to the granting of removal credits.

Therefore, in order to obtain removal credits authority, the POTW must comply with the substantive use and disposal standards before removal credits will be available.

In the proposed rule, EPA identified certain pollutants proposed for regulation for which removal credits would be available after promulgation and compliance with the final part 503 use and disposal standards. In addition, EPA also indicated its tentative conclusion that 17 other pollutants not regulated in the proposed standards would be eligible for removal credits in one or more use or disposal methods. EPA explained that certain pollutants not proposed for regulation had been evaluated for adverse effects and at the highest concentration shown, did not pose an unreasonable risk to public health or the environment (54 FR 5853–5854).

The Agency is now considering several options for identifying pollutants eligible for removal credits with respect to the use and disposal of sewage sludge. These options address pollutants not reviewed for possible control and numerical limitations in the initial part 503 regulations.

Section 405(d) of the CWA, as amended, requires EPA to identify and develop regulations for pollutants in sewage sludge in two phases and from time to time review these regulations for the purpose of identifying other pollutants for regulation. EPA has identified an initial list of pollutants in sewage sludge in the proposed part 503 regulations—"round one" pollutants. EPA is also reviewing pollutants other than the "round one" pollutants for possible control in subsequent amendments to the part 503 rule. These pollutants would be "round two" pollutants. Other pollutants may be reviewed for possible control after the regulations for the "round two" pollutants are promulgated.

Approach in the Proposed Rule

As previously noted, the proposed part 503 regulations contains two lists of pollutants eligible for a removal credit

with respect to the use and disposal of sewage sludge. One list (i.e., Table 11 of the proposal) contains the pollutants controlled by the proposed part 503 by use and disposal practice. If the limit for a pollutant for the applicable use and disposal practice is met, the pollutant would be eligible for a removal credit with respect to the use and disposal of sewage sludge so long as other EPA procedural and substantive requirements found at 40 CFR 403.7 are met.

The second list (i.e., Table 12 of the proposal) contains pollutants by use and disposal practice and a concentration for each pollutant. The Agency determined, based on the results of a risk assessment using worst-case assumptions, that the pollutants on the second list do not pose an unreasonable risk to human health and the environment if the concentrations for those pollutants are below the concentrations on the second list. Data available at the time the "round one" list of pollutants was developed indicated that the concentrations of the pollutants in sewage sludge never exceeded the concentrations in Table 12 for those pollutants. For this reason, EPA decided not to control those pollutants in part 503. The Agency indicated it was considering making a pollutant on the second list eligible for a removal credit with respect to the use and disposal of sewage sludge if the concentration of the pollutant in the sewage sludge did not exceed the concentration for that pollutant in Table 12 and if the treatment works complies with the applicable standards in part 503.

The proposed part 503 regulations also indicated that if sewage sludge is disposed of in a municipal solid waste landfill that meets the criteria in 40 CFR part 258, any pollutant in the sewage sludge is eligible for a removal credit with respect to the use and disposal of sewage sludge. Those pollutants are eligible for a removal credit with respect to the use and disposal of sewage sludge because disposal of sewage sludge in a municipal solid waste landfill that meets the criteria in 40 CFR part 258 constitutes compliance with section 405 of the Clean Water Act, as amended. The final part 258 regulations to be issued in the fall of 1990 will explain the conditions under which removal credits may be authorized.

Removal Credits

Four options are presented in this section concerning the eligibility for a removal credit with respect to the use and disposal of sewage sludge for the "round two" pollutants and for pollutants not on either the "round one" or "round two" lists. The Agency invites comment on these options and requests information on the rationale for a particular option if that option is recommended. Several options for removal credit authorization for pollutants that are not regulated in the use or disposal standards are being considered. The options range from not authorizing a removal credit until EPA has developed a specific numerical limitation for that pollutant or specifically determined a pollutant is not of concern to allowing a removal credit unless the pollutant is identified for development of numerical pollutant limitations.

Each of the options presented below assume the removal credits section in the proposed part 503 regulations for the "round one" pollutants is the same in the final part 503 regulations for those pollutants. That section indicates:

- Pollutants listed in the removal credit section of the part 503 regulations for the "round one" pollutants are eligible for a removal credit with respect to the use and disposal of sewage sludge if: (1) The limit for a pollutant that is controlled is met or (2) the concentration for a pollutant that is regulated does not exceed specified limits in the sewage sludge; and
- Any pollutant in sewage sludge disposed of in a municipal solid waste landfill that meets the criteria in 40 CFR part 258 is eligible for a removal credit with respect to the use and disposal of sewage.

Option 1—A categorical pretreatment standard pollutant is eligible for removal credits only when EPA has either established a specific numerical limit for that pollutant or has evaluated it and concluded that it does not threaten public health and the environment.

Option 2—A categorical pretreatment standard pollutant, not listed in the removal credit section of the final part 503 regulations for "round one" or "round two," becomes eligible for a removal credit when the "round two" regulations are promulgated.

Option 3—A categorical pretreatment standard pollutant, not listed in the removal credit section of the final part 503 regulations for "round one," becomes eligible for a removal credit if not identified by EPA in the Federal Register as a pollutant that may be regulated in "round two."

Option 4—A categorical pretreatment standard pollutant, not listed in the removal credit section of the final part 503 regulations for "round one," becomes eligible for a removal credit when the "round one" regulations are promulgated.

Under Options 2 through 4, once an unregulated pollutant was listed as a candidate for possible regulation, it would no longer be eligible for removal credits until numerical limits for that pollutant were promulgated and sludge is used or disposed in compliance with the limits.

Options 2 through 4 are premised on the assumption that "round one" and "round two" will probably address substantially all the universe of pollutants in sewage sludge that may pose a threat to human health and the environment. The NSSS, as previously explained, provides the data on pollutant frequency and level of occurrence that will be used, in part, to identify pollutants for subsequent regulation. The processes used to identify pollutants for possible regulation in "round two" will involve examination of additional data on pollutant effects. Further, EPA will employ procedures like those used to identify candidate pollutants for "round one" to screen for "round two" pollutants.

In addition, substantial amounts of data and new information have been obtained in this rulemaking concerning pollutants in sewage sludge, and the public health and environmental effects associated with these pollutants. "Round two" should similarly result in the Agency's developing further information. Because of the comprehensiveness of the NSSS and the information developed to support these rulemaking efforts, the Agency believes it is a well founded assumption that there will be little need for addressing additional pollutants following "round two." In these circumstances then, it may be appropriate to make unregulated pollutants eligible for removal credits without more formal, resource-intensive modelling efforts. The Agency requests public comment on the reasonableness of such assumptions.

Option 1, essentially the approach proposed in the part 503 regulations, by contrast, would continue to rely on more detailed examination of pollutants for possible adverse effects on human health and the environment. Thus, in the part 503 proposal, EPA would limit removal credit eligibility to those pollutants either specifically regulated or pollutants that the Agency determined did not threaten public health and the environment. In the proposal, EPA indicated that removal credits would be available for 65 pollutants regulated for any one of five use or disposal methods as well as 17

other pollutants that had been evaluated for regulation but determined not to represent a threat to human health or the environment at certain levels.

In determining which pollutants to regulate, the Agency had looked first at a list of some 200 pollutants for further evaluation as candidates for possible regulation. This list was reduced to a subset of pollutants for more intense scrutiny and possible regulation. The pollutants for which removal credits were proposed to be available came from this group of pollutants. Categorical pretreatment standards pollutants that belonged to the group of pollutants not evaluated for regulation, under the proposal, would not be eligible for removal credits. In the view of some commenters, this approach unfairly excludes from removal credit eligibility pollutants that may represent little or no threat to public health and the environment simply because EPA has not formally evaluated them for environmental threat.

EPA recognizes that, generally, the pollutants regulated in "round one" represents those pollutants with the greatest potential for threatening public health and the environment. In fact, a multi-year effort was devoted to the identification of just such pollutants. However, it should be recognized that the decision to regulate some pollutants and not others was in part based on the availability of information on the pollutants. The decision not to regulate does not necessarily mean that the unregulated pollutants may not threaten public health and the environment.

Consequently, under the Option 1 approach, EPA believes that before any additional pollutant not identified in proposed part 503 should be eligible for a removal credit, that any such pollutant must be fully evaluated for its potential to threaten public health or the environment when disposed of in sewage sludge. This, in most cases, would require a demonstration applying the methodology used in part 503 to establish the numerical pollutant-specific concentration limits that the pollutant, at some specified concentrations in sludge, would not adversely affect public health and the environment.

EPA is seeking comment on the Option 1 approach for establishing what pollutants may be eligible for removal credit authorization. In addition, if, at this time, a person believes that a specific categorical pretreatment standard pollutant not regulated in proposed part 503 should be eligible for removal credits under Option 1 (because it can be demonstrated that the pollutant represents no threat to human health and the environment), the person should provide EPA in this rulemaking information to support such a finding. Based on such information, if EPA decides to adopt Option 1, EPA will consider if further categorical pretreatment standard pollutants may be appropriate for removal credit eligibility.

Thus, for example, a POTW or industry seeking to establish that removal credits should be authorized in part 503 for a pollutant in sewage sludge that is applied to land and not proposed for regulation would need to establish that the concentration of that pollutant in its sludge was not harmful to the environmental end point for the controlling pathway for land application. The demonstration would generally require the use of mathematical models such as those described in the TSD for land application used for the proposed rule.

In addition to comments on the options discussed above, EPA requests information on pollutants in sewage sludge not on the two lists of pollutants (i.e., Tables 11 and 12 of the proposal) eligible for a removal credit with respect of the use and disposal of sewage sludge in the proposed part 503. The Agency collected information on the frequency of occurrence and concentration of pollutants in sewage sludge during the National Sewage Sludge Survey. Additional data on frequency of occurrence and concentration is requested.

Other information requested includes, but is not limited to:

- Toxicity of a pollutant to aquatic organisms, mammals, birds, soil organisms, and domesticated animals used for meat and milk production. Information on the acute and chronic mutagenic, carcinogenic, and teratogenic effects of a pollutant are requested.
- Environmental fate, effect, and transport of a pollutant. This includes the persistence of a pollutant in air, water, soil, and plants; bioconcentration in aquatic organisms, mammals, birds, and soil organisms; uptake by a plant based on sewage sludge field data; volatility; water solubility; and the decay rate of a pollutant in the soil.

The Agency will use the information requested above to develop the "round two" list of pollutants. Some of the information also will be used to conduct pathway exposure analyses for the "round two" pollutants during the development of the limits for those pollutants.

Part III: Implication of Survey Results on the Economic Impact Analysis

Section 405(d) of the CWA directs EPA to publish information on the costs of sludge use and disposal. In addition to this legislative requirement, Executive Order 12291 directs EPA to analyze and consider the cost and impact associated with regulations. The Executive Order addresses various concerns about Federal regulations, including a requirement to develop a Regulatory Impact Analysis for all major regulations, which are defined as those that impose an annual costs to the economy of $100 million or more or that meet other economic impact criteria. While the Agency will conduct the analysis necessary to meet these legislative requirements, the determination about what are appropriate use or disposal standards in the final part 503 regulations will be based on public health and environmental protection, not costs. Although costs will be considered in the development of the regulations, the major emphasis of concern will be to protect public health and the environment.

Methodologies for the Compliance Analysis

1. Pass/Fail Analysis Methodology

The pass/fail analysis is the initial step in EPA's methodology to estimate the regulatory impacts associated with the proposed part 503 regulations. For the pass/fail analysis, EPA will rely on the NSSS results to determine the number and percentage of POTWs that will need either to modify their current sewage sludge use and disposal practice or to shift to an alternative practice. This analysis compares the actual concentrations of pollutants in the sludge of secondary treatment POTWs that will need either to modify their current sewage sludge use and disposal practice or to shift to an alternative practice. The pass/fail analysis refers to the process of comparing actual concentrations of pollutants in the sludge of secondary treatment POTWs to the proposed part 503 numerical pollutant limits. If the actual concentration of one or more of the regulated pollutants exceeds the numerical limits, the POTW's sludge "fails" for that disposal option. Where pollutant concentrations in sludge are all below the numerical limits, the POTW's sludge "passes" for that disposal option. The pass/fail results will then be extrapolated to the total number of secondary treatment POTWs in the United States.

The term "failure" is used in the compliance cost analysis to define a situation where a POTW's sludge does not meet the criteria at the current application or feed rate reported by that POTW. In these circumstances, in order to comply with the part 503 standards, the POTW would need to modify its sludge disposal practices by either shifting to another disposal method or modifying application or feed rates, and thus will incur compliance costs beyond those for monitoring, recordkeeping, and reporting. This definition of "failure" is used throughout part II of today's notice.

a. *National Sewage Sludge Survey Data*—The analytical data base of the NSSS, which contains sludge quality information on 177 POTWs, will provide EPA with the concentrations of pollutants in each wastewater treatment process at each POTW. The questionnaire data base portion of the NSSS, which contains data on approximately 460 POTWs, will provide information regarding the volume of sludge disposed using the various available use and disposal options, the size of the POTW, and numerous other input variables, such as sludge land application rates, associated with each of the use and disposal options.

b. *Methodology*—For each of the 177 POTWs for which sludge quality results are presented in the analytical survey and for each use and disposal method used by these 177 POTWs, EPA will conduct a pass/fail analysis based on criteria in the proposed sewage sludge use and disposal regulations. The analysis, which uses the data discussed above, involves the following steps:

(1) *Determine the pollutant levels for each POTW*—Using laboratory results of sludge samples taken from each POTW for the analytical portion of the NSSS, EPA will determine the concentration of each pollutant regulated under the proposed part 503 regulations in each POTW's sludge.

Some POTWs in the study have more than one treatment process. In these cases, sludge samples were taken from each treatment process, bringing the total number of samples to 240 samples for the 177 POTWs in the study. EPA has not yet determined if sludge from two separate treatment processes was disposed of using two different disposal methods. For now, EPA may average pollutant levels for all treatment processes at each individual POTW. Eventually EPA plans to link each process with the use and disposal options used if multiple use and disposal options are employed at a particular POTW.

In addition, some sampling results for specific pollutants were reported as "not detected." EPA will establish a policy for how non-detects should be handled, and this policy will be incorporated into the analysis. At this time, EPA is considering three options: (1) To treat non-detects as a zero pollutant concentration, (2) to treat non-detects as present in the sludge at the detection limit or (3) to estimate the actual concentration based on a probability function. The last option is EPA's choice at this time. A more detailed discussion of non-detects is presented in part I of today's notice.

(2) *Merging Data from the Questionnaire Survey with Data from the Analytical Survey*—The questionnaire portion of the NSSS is divided into a number of separate data bases that will be merged so that information from each data base will be available for each of the 177 POTWs in the analytical survey. The final merged pass/fail data base will include information on each POTW's name, flow group (size), disposal method, average total flow, volume of sludge disposed, percent solids of sludge, various data associated with the specific use and disposal method or methods used, and the analytical data on pollutant concentrations in the POTW's sludge. For example, for land appliers, current sludge application rates for each end use employed by the POTW will be included; for POTWs using incineration, incinerator operating parameters for each unit will be included. The disposal-specific information will be used as input to the equations specified in the regulations for calculating, for example, the annual whole sludge application rate for land application or the allowable pollutant concentration in incinerated sludge.

(3) *Generation of Pass/Fail Results*—The final merged pass/fail data base will then be used with the equations as specified in the part 503 regulations and the criteria established in the regulations for the disposal method used by each POTW to calculate four types of pass/fail results.

(a) The percentage of facilities, by use and disposal method, that pass the appropriate sludge use and disposal criteria. The percentage estimates will reflect survey weights.

(b) The percentage of facilities that pass all criteria for sludge use and disposal. Each facility will be considered to be in compliance if sludge from all its use and disposal practices is in compliance. Again, the percentage estimate will reflect survey weights.

(c) The average percentage of individual facilities in compliance. The amount of sludge at a facility that is in compliance will be estimated by comparing the analytical results for each disposal practice with the sludge use and disposal criteria, the total amount of sludge in compliance will be divided by the total amount of sludge produced, and then the average percentage of facilities in compliance will be the weighted average across facilities.

(d) The percentage of all sludge that meets the sludge criteria. This estimate is based on the total sludge reported used for all disposal practices, results of the analytical survey, sludge use and disposal criteria, and weighing factors that are based on the survey design.

(4) *Extrapolation to the Entire Population of Secondary Treatment POTWs*—The final step in the methodology is to extrapolate the weighted results of the pass/fail analysis to the entire population of secondary treatment POTWs. These results will then become part of the input to the compliance cost analysis.

2. Estimated Cost of Compliance

a. *Introduction*—Due to the characteristics of the National Sewage Sludge Survey, a different method will be available to estimate the cost of compliance with the final regulations from that used for the proposal. This method will use the probability structure of the survey and information on multiple disposal practices.

The part 503 numerical criteria for sludge use and disposal will be compared to the analytical results of all sampled disposal practices at every facility in the analytical portion of the survey. If a pollutant of concern is detected at a level higher than the criteria for the appropriate disposal practice (or if it is detected at a level higher than the criteria based on the application rate or feed rate currently being used) then the necessary cost to bring that facility into compliance will be estimated. Weighing factors, based on the design of the survey, will then be used to estimate the total cost of regulation for all POTWs and the expected value of the cost for POTWs that use each disposal practice.

b. *Selection of Survey Subset for Compliance Cost Analysis*—In theory, all POTWs that fail to meet the criteria (or fail to meet the criteria at the application rate/feed rate currently used) should be analyzed to determine compliance costs. In reality, however, the number of POTWs involved may be too large to handle in this manner. Depending on the number of POTWs that fail the criteria, either 100 percent or some fraction of POTWs will be selected for use in the compliance cost analysis. If less than 100 percent

sampling must be used (i.e., where the number of eligible POTWs is too large to analyze) the POTWs to be used will be selected in a statistically representative manner. The actual selection procedure has not been finalized, but the POTWs selected will be representative of the other survey POTWs in that flow group and disposal category (stratum).

c. *Compliance Cost Analysis Methodology*—The subset of POTWs selected (the compliance cost POTWs) will be analyzed to determine a number of factors important to the compliance cost estimate. These factors, which are discussed below, include, among others, application rate for land appliers and those practicing distribution and marketing (D&M), compost bulking agent ratio for those practicing D&M, depth to groundwater for those practicing monofilling, feed rate and stack height for those practicing incineration, and disposal methods POTWs might consider if the present disposal practice were unavailable or impractical following promulgation of part 503.

These data will be used to develop compliance strategies and incremental costs of compliance associated with implementing the compliance strategy as well as with meeting monitoring, recordkeeping, and reporting requirements. Total incremental costs for the compliance cost POTWs will be totalled by flow group and disposal method stratum. These costs will then be extrapolated, first to all POTWs in the analytical survey represented by the compliance cost POTWs and then, once weighted, to all secondary treatment POTWs. Incremental compliance costs for monitoring, recordkeeping, and reporting will also be calculated for all POTWs that pass the criteria.

If, after selecting the compliance cost POTWs, the number of POTWs to be analyzed is still too large, a modification of this methodology may be employed. In this case, the group of POTWs within a stratum that fail the relevant criteria (for example, all POTWs in the analytical survey within a particular flow group practicing land application that fail to meet the land application criteria at their current application rates) will be used to derive appropriate estimates of critical parameters (e.g., the mean application rate among POTWs in that stratum). These estimates of parameters will then be used to develop a "model facility" to represent all POTWs in each stratum. EPA prefers, however, to use the former approach. EPA invites public comment on these two approaches.

d. *Example of How Data Will Be Used*—EPA's preferred methodology for using each of the compliance cost POTWs can be explained best by example. Assume that a POTW has been selected to represent a portion of the surveyed POTWs that are land appliers with a flow of greater than 10 to 100 MGD (flow group 2). Assume also that the questionnaire survey indicates that the POTW applies sludge to agricultural land at 10 percent solids and at a rate of 15 dry metric tons (DMT)/hectare (ha). Assume further that the questionnaire indicates that the POTW could reduce this rate by 30 percent and that the POTW believes it could not shift to non-agricultural land application but would consider co-disposal as a viable option. Using this and other available information (including the sludge criteria and the POTW's sludge quality) the analysis will determine what the most likely compliance strategy might be (e.g., whether a 30 percent reduction in application rate would allow the POTW to continue its land application program or whether co-disposal might be chosen).

Costs for the most likely compliance strategy will then be developed. For example, if co-disposal were determined to be the most likely compliance strategy, costs for additional dewatering (from the 10 percent solids now reported), sludge transport, and tipping fees at the landfill will be calculated. Incremental monitoring, recordkeeping, and reporting costs will be added to the compliance strategy implementation costs to determine a total incremental cost for this POTW. When total incremental costs for this POTW are added to costs developed for all other compliance cost POTWs in this stratum, a national compliance cost total can be developed as described above under Compliance Cost Analysis Methodology.

EPA solicits comment on this approach to calculating compliance costs, as well as on the methodology for developing a "model facility" approach, which may be used if the number of POTWs that must be analyzed is large.

Revisions of 1989 RIA Parameters Based on NSSS Data

EPA made a number of assumptions in the 1989 RIA regarding sewage sludge and its use and disposal. Because of the availability of far more complete data from the NSSS, the Agency will not have to rely on many of these assumptions in the revised RIA. As noted in the previous section, where averages were used to estimate costs in the 1989 RIA, actual POTW data from a subset of facilities in the NSSS (the compliance cost POTWs) will probably be used to develop compliance costs, subject to the limitations outlined.

The following sections summarize some of the results from the questionnaire portion of the NSSS that will be important in developing the compliance cost estimates. These results are presented for the most part as averages, although, as discussed, EPA prefers not to use averages in the compliance cost estimates. Note that the results are not final; sampling weights have not been applied to the data and the number of facilities in the survey by use and disposal practices may change following further survey data verification (however, these changes should be minimal). Thus, most tables in this section do not present overall averages or percentages across totals, because these data could be misleading and their interpretation could result in incorrect conclusions being drawn. The applicability of these reported data to all POTWs has not yet been established, although they may be a reasonable approximation of what is expected once sampling weights are applied. Since the data have been organized by reported flow group rather than by survey design flow group, data for some flow groups could change somewhat when results are finalized (see part I of the Notice for a discussion of reported vs. survey design strata).

The critical assumptions from the 1989 RIA that will be replaced by more precise NSSS data were divided into seven topic areas:

1. General Sludge Characteristics;
2. Characteristics of Land Applied Sludge and POTWs Practicing Land Application;
3. Characteristics of Distributed and Marketed (D&M) Sludge and POTWs Practicing D&M;
4. Characteristics of Incinerated Sludge and POTWs Practicing Incineration;
5. Characteristics of Monofilled Sludge and POTWs Practicing Monofilling;
6. Characteristics of Surface-Disposed Sludge and POTWs Practicing Surface Disposal; and
7. Disposers of Primary Sludge.

Each of these topic areas, with their relevant data, are discussed below. EPA solicits comment on these data and the proposed approaches to incorporating the data into the revised RIA.

1. General Sludge Characteristics

Total volumes of sludge can be estimated based on the NSSS. The totals in Table III-1 have been weighted and thus reflect volumes extrapolated to all POTWs practicing secondary treatment

in the United States. The means have not been weighted, so these numbers are only approximate. The total volume of secondary treatment sludge generated annually in the United States is estimated to be 5.6 million dry metric tons (DMT). The 1989 RIA estimated 7.7 million DMT per year. Some of this difference may be related to primary sludge volumes, which are included in the 1989 RIA estimate but are not included in the NSSS estimate. Additional differences may be attributable to assumptions made in preparing the 1989 RIA estimate, in which sludge volumes in dry weight were derived using reported wastewater flow, a conversion factor, and percent solids assumptions.

TABLE III-1—TOTAL[a] AND MEAN[b] VOLUMES OF SLUDGE GENERATED BY DISPOSAL METHOD AND FLOW GROUP

[Totals in thousands dry metric tons; means in dry metric tons]

Reported flow group[c]	Land application		D&M		Incineration		Monofill		Co-disposal	
	Mean	Total	Mean	Total	Mean	Total	Mean	Total	Mean	Total
1	46,182	461.8	49,474	49.5	48,394	349.1	.....	.....	117,105	117.1
2	10,436	649.2	5,643	156.9	4,899	311.6	55,586	71.7	6,821	501.6
3	993	1,094.1	1,615	68.8	1,221	95.0	5,759	16.8	781	410.1
4	58	131.6	316	46.1	44	4.1	3,745	20.4	205	95.6
Total	NA	2,336,7	NA	321.3	NA	759.8	NA	108.8	NA	1,124.3
Percent of Total	.....	41.9	.....	5.8	.....	13.6	.....	2.0	.....	20.2

Reported Flow Group	Ocean		Co-Incineration		Surface disposal		Other		Total	
	Mean	Total	Mean	Total	Mean	Total	Mean	Total	Mean	Total
1	36,898	147.6	.....	0.0	35,539	35.5	2,478	2.5	46,111	1,163.2
2	9,733	116.8	7,917	35.5	11,742	386.1	2,531	60.0	7,459	2,289.3
3	206	0.8	820	1.9	381	53.4	439	10.7	947	1,751.6
4	18	0.01	.....	0.0	41	37.3	21	34.7	97	369.8
Total	NA	265.2	NA	37.4	NA	512.3	NA	107.9	NA	5,573.9
Percent of Total	.....	4.8	.....	0.1	.....	9.2	.....	1.9	.....	100.0

[a] Total is extrapolated to all POTWs with secondary treatment. Totals have been weighted; means are unweighted.
[b] Mean is calculated only for sample not for the universe.
[c] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=not available at this time. Once data are weighted, these numbers will be calculated.

A total of 42 percent of the sludge volume reported in the NSSS was determined to be land applied, and 20 percent co-disposed. The 1989 RIA differs from the NSSS on estimates for these two disposal practices (the 1989 RIA estimates 16 percent of sludge is land applied and 40 percent is co-disposed). Estimates for all other disposal methods are more similar between the two data sources. The new data from the NSSS, which are considered representative of actual sludge volumes going to the various use and disposal methods, will be used in the revised RIA to establish total sludge volumes among the various use and disposal practices. Costs, however, will continue to be estimated in the revised RIA on a POTW basis (i.e., total volumes will not directly determine compliance costs).

Another major assumption EPA used in the 1989 RIA was that sludge is 22 percent solids, with the exception of ocean-disposed sludge, which was calculated to be about three percent solids based on information from Region II EPA. The methodology for using percent solids may change significantly in the revised RIA since EPA prefers not to use an average. Rather the percent solids reported by each POTW used to determine compliance costs will, if possible, be used instead. To indicate where the percent solids of these facilities may range, Table III-2 presents average percent solids for each disposal method in the NSSS by reported flow group. Land applying POTWs reporting in the NSSS appear to be applying sludges that are less than 22 percent solids. Within all reported flow groups, percent solids averaged less than 22 percent, with averages ranging from a low of 4.3 percent to a high of 10.5 percent. For those practicing D&M, the average percent solids range from 2.8 percent to 12.4 percent among the reported flow groups. The other disposal practices may be associated with sludges having percent solids near 22 percent, except for ocean disposal in which average percent solids range from 2.7 to 4.5 percent in the NSSS, near the three percent used in the 1989 RIA.

TABLE III-2.—MEAN PERCENT SOLIDS OF SLUDGE BY DISPOSAL METHOD AND FLOW GROUP AS REPORTED BY NSSS RESPONDENTS

Reported flow group[a]	Land application	D&M	Incineration	Monofill	Co-Disposal	Ocean	Co-Incineration	Surface disposal	Other
1	10.5	8.8	28.9	44.0	33.9	4.3	.....	38.0	1.0
2	5.2	12.4	24.6	20.1	29.1	2.7	56.0	12.2	14.6
3	4.3	3.7	15.4	20.5	21.9	4.5	20.0	25.4	15.7
4	4.5	2.8	5.0	10.0	24.6	3.0	.....	33.5	11.8
Total	NA	NA	NA	NA	NA	NA	NA	NA	NA

* Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=>0-1 MGD.
NA = Not available at this time. When data are weighted, these numbers will be calculated.

2. Characteristics of Land Applied Sludge and POTWs Practicing Land Application

EPA made several important assumptions about land applied sludges and land applying, POTWs in the 1989 RIA. The major assumptions were that:

(1) All POTWs land applying sludges did not compost their sludge;

(2) Non-agricultural land was readily available to those POTWs that would want to shift from agricultural to non-agricultural land application as a means of complying with the regulations;

(3) POTWs that could not continue to use some form of land application would shift to incineration or co-disposal;

(4) Each POTW practiced only one end use;

(5) Among agricultural land appliers, an application rate of 11 DMT/ha was typically used;

(6) The POTW owned the land on which sludge was applied in many cases;

(7) Written agreements or contracts between POTWs and land owners were common and not difficult to implement; and

(8) Land application rates could be lowered to some extent, but extremely low application rates would not be practically feasible.

EPA will not have to rely on these generalizations in the revised RIA. Rather, the characteristics of the compliance cost POTWs can be used directly. For example, if a representative facility indicates that non-agricultural land is available and that shifting from agricultural to non-agricultural land application is a compliance strategy the POTW might consider, then the POTW may be considered likely to shift from agricultural land application to non-agricultural land application, if necessary, to comply with the Part 503 regulations. Information from the NSSS is summarized below to indicate the types of data that will be used in the revised RIA.

As Table III-3 shows, most POTWs, with the exception of those in the largest flow group, do not appear to compost their sludges. Among the smaller flow groups the percentage composting their sludges ranges between 1.6 percent and 10.8 percent. EPA should not have to assume that POTWs practicing land application do not compost their sludge since the Agency plans to use the compliance cost POTWs to represent POTWs that land apply either composted or non-composted sludge.

TABLE III-3.—NUMBER OF POTWS COMPOSTING BEFORE LAND APPLYING

Reported flow group *	Total land application POTWs in survey	Using some type of composting		Total responding
		No.	Percent of total	
1	12	6	50.0	12
2	28	1	3.6	28
3	75	8	10.8	74
4	61	1	1.6	61
Total	176	16	NA	175

* Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighed, this number will be calculated.

In the 1989 RIA, EPA assumed that non-agricultural land was readily available to most POTWs. As Table III-4 shows, however, the percentage of POTWs that believe non-agricultural land is available to them ranges from 55.6 percent among the largest POTWs to 22.9 percent among the smallest POTWs. Note that this does not mean that non-agricultural land is absolutely unavailable, but it does tend to indicate that many POTWs would have to spend time and money further investigating the availability of non-agricultural sites if their other disposal options are limited. It also indicates that transportation costs for sludge disposal may increase significantly as POTWs search farther off site for suitable land. The revised RIA will take into account that all POTWs that might want to shift to non-agricultural land application as a means of compliance with the regulations may not be able to shift or may choose not to shift to non-agricultural land application because of costs additional to those for disposal alone (e.g., high transportation costs).

TABLE III-4.—NONAGRICULTURAL LAND IS AVAILABLE AS AN ALTERNATIVE FOR AGRICULTURAL LAND APPLICATION

[Among Those Practicing Agricultural Land Application]

Reported flow group *	Non-agricultural land available		Percent of total	Total responding
	Total land application POTWs in survey	No. responding yes		
1	12	5	55.6	9
2	28	6	27.3	22
3	75	20	33.9	59

TABLE III-4.—NONAGRICULTURAL LAND IS AVAILABLE AS AN ALTERNATIVE FOR AGRICULTURAL LAND APPLICATION—Continued

[Among Those Practicing Agricultural Land Application]

Reported flow group *	Non-agricultural land available		Percent of total	Total responding
	Total land application POTWs in survey	No. responding yes		
4	61	11	22.9	48
Total	176	42	NA	138

* Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighed, this number will be calculated.

Table III-5 can be used to determine the likelihood that POTWs would shift to incineration or co-disposal if land

application were no longer available to them. Many POTWs in all flow groups indicated that co-disposal would be considered; however, incineration does not appear to be a major choice as an alternative. More can be said about these choices once weights have been applied. Note that this does not mean that incineration would not be considered if it appeared to be the only alternative available (which might be the case if criteria for all other disposal methods are as stringent or more stringent than those for land application and if co-disposal were not available). Again, the revised RIA will investigate the most likely compliance strategy for each compliance cost POTW.

The 1989 RIA assumed that all POTWs practicing land application employed only one end use. Table III-6 and III-7 show that many POTWs use more than one land application method. In most flow groups, agricultural land application is practiced most frequently, often by a wide margin. "Other" methods of land application are used fairly frequently among the largest two groups of POTWs. The 1989 RIA indicated that the end use employed most often was land application (72 percent), followed by "other" (19 percent), dedicated land application (6 percent), and reclamation (3 percent). These estimates appear realistic based on what can be determined at this point from the NSSS. Note, however, that the revised RIA will take into account the distribution of end uses among POTWs, and the Agency will attempt to include multiple end uses in the compliance cost analysis.

TABLE III-5.—WHICH DISPOSAL OPTIONS WOULD BE CONSIDERED IF LAND APPLICATION WERE NO LONGER A VIABLE ALTERNATIVE

[Multiple responses possible]

Reported flow group [a]	Co-disposal		Co-incineration		D&M		Incineration (new incinerator)		Incineration (existing incinerator)		Monofill		Surface disposal		Other		Total responding
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent	
1	6	37.5	0	0.0	4	25.0	0	0.0	2	12.5	1	6.3	3	18.8	0	0.0	16
2	18	56.3	1	3.1	4	12.5	0	0.0	0	0.0	1	31.3	6	18.8	2	6.3	32
3	32	37.6	1	1.2	19	22.4	5	5.9	2	2.4	3	35.3	14	16.4	9	10.6	85
4	26	52.0	1	0.2	6	12.0	0	0.0	0	0.0	3	6.0	6	12.0	8	16.0	50
Total	82	NA	3		33	NA	5	NA	4	NA	8	NA	29	NA	19	NA	183

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighed, these numbers will be calculated.

TABLE III-6.—NO. AND TYPE OF END USES EMPLOYED BY SURVEY POTWS PRACTICING LAND APPLICATION AS ONE OF THEIR DISPOSAL METHODS BY SIZE AND END USE

[Multiple responses possible]

Reported flow group [a]	Total land application POTWs in survey	Agricultural land application	Dedicated land application	Reclamation	Other	Total responding
1	12	9	2	6	10	27
2	28	28	1	2	11	42
3	75	75	10	1	10	96
4	61	52	5	2	3	62
Total	176	164	18	11	34	227

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.

TABLE III-7.—Average Number of End Use Disposal Methods Practiced by Land Applying POTWs by Flow Group

Reported flow group [a]	Mean
1	2.3
2	1.6
3	1.3
4	1.1
Total	NA

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighted, this number will be calculated.

The 1989 RIA used average application rates for POTWs practicing agricultural land application. EPA will probably not rely on any average application rate, but will attempt to use the application rate indicated by each compliance cost POTW. Note, however, that the average of 11 DMT/ha used in the 1989 RIA is within the range of application rates for agricultural land application shown in Table III-8, in which mean land application rates range from 3 to 19 DMT/ha.

In the 1989 RIA, EPA assumed for costing purposes that the POTW owns the land used for most types of land application. In Table III-9, among the reported flow groups, many POTWs practicing agricultural land application appear to use privately owned land. Patterns in the other end use categories are not yet as clear, but non-POTW ownership does occur. Once weights are applied, the patterns can be interpreted more reliably. EPA should not have to determine a general case of ownership but will attempt to use the compliance cost POTWs to indicate the land ownership in each particular instance.

EPA assumed in the 1989 RIA that written agreements or contracts were commonplace and easy to implement. Table III-10 appears to support this assumption. Within each flow group, most facilities responding to the question appear to have some form of written agreement. At this time, however, it is not clear how many POTWs practicing land application responded to this question, thus a final determination of how often written agreements are used must await weighing and other data analysis.

TABLE III-8.—MEAN APPLICATION RATE BY END USE AND SIZE

[DMT/HA] [a]

Reported flow group [b]	Mean application rate			
	Agricultural	Dedicated	Reclamation	Other
1	16	10	134	138
2	19	13	41	37
3	12	17	-	6
4	3	3	20	11
Total	NA	NA	NA	NA

[a] Dry Metric Tons Per Hectare.
[b] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

TABLE III-9.—OWNER OF LAND FOR LAND APPLICATION BY SIZE AND TYPE OF END USE

[Multiple Responses Possible]

Reported flow group [a]	Agricultural				Dedicated			
	Mun.	POTW	Private	Other [b]	Mun.	POTW	Private	Other [b]
1	0	1	8	1	1	2	0	0
2	6	4	23	2	1	0	0	0
3	7	7	66	3	7	3	1	0
4	3	3	47	1	2	0	2	0
Total % of total	16	15	144	7	11	5	3	0
For each end use	NA	NA	NA	NA	NA	NA	NA	NA

Reported flow group [a]	Reclamation				Other			
	Mun.	POTW	Private	Other [b]	Mun.	POTW	Private	Other [b]
1	1	1	5	0	5	3	2	2
2	0	0	2	0	4	0	5	3
3	0	0	0	1	5	1	3	2
4	1	0	1	0	0	0	3	0
Total % of total	2	1	8	1	14	4	13	7
For each end use	NA	NA	NA	NA	NA	NA	NA	NA

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
[b] Includes State.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

TABLE III-10.—TYPES OF LAND APPLICATION AGREEMENTS BY FLOW GROUP

[Multiple Responses Possible]

Reported flow group [a]	Interagency	Written contract	Other written agreement	Other	None	Total responding	Total end uses [b]
1	6	12	12	13	1	44	27
2	7	15	3	7	2	44	42
3	9	31	5	11	6	62	96
4	6	11	8	10	7	42	62
Total % of total	28	79	28	41	16	192	227
	NA	NA	NA	NA	NA	NA	NA

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
[b] Each POTW may employ more than one end use. POTWs were required to fill out a separate portion of the questionnaire for each end use they employ.
NA = Not available at this time. When data are weighted, these numbers will be calculated.

In the 1989 RIA, EPA discussed whether land application rates could be lowered as a means of compliance and assumed that rates could be lowered to some extent, but that a cut from 11 DMT/ha to three DMT/ha (or more than a 70 percent reduction) would be unrealistic. Table III-11 appears to indicate that within all reported flow groups most POTWs felt that they could not lower application rates. Only among those POTWs practicing agricultural land application do rate reductions seem to be possible with any frequency. Table III-12 seems to support the 1989 RIA assumptions that rate reductions of 70 percent or more are probably not feasible in agricultural land application. Rate reduction assumptions will probably be unnecessary in the revised RIA. Any rate reductions possible as reported by the compliance cost POTWs will be incorporated, if possible, as part of the compliance strategy determination. Otherwise, EPA will probably assume that no reductions are practically or technically feasible.

TABLE III-11.—REDUCTION IN LAND APPLICATION RATES

Reported Flow Group [a]	Application rates can be lowered					Application rates can't be lowered						
	Agricultural	Dedicated	Reclamation	Other	Total	Agricultural	Dedicated	Reclamation	Other	Total	Total responses not missing or noted as NA [b]	Total end uses [b]
1	2	0	1	0	3	7	2	5	10	24	27	27
2	9	0	0	0	9	19	1	1	8	29	38	42
3	19	2	0	1	22	51	7	1	6	65	87	96
4	17	1	0	0	18	33	4	2	2	41	59	62
Total of Respondents	47	3	1	1	52	110	14	9	26	159	211	227
% of Total Practicing Each End Use	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

[a] Flow group 1 = > MGD; flow group 2 = > MGD; flow group 3 = > 1-10MGB; flow group 4 = 0-1 MGD.
[b] Each POTW may employ more than one end use. POTWs were required to fill out a separate portion of the questionnaire for each end use they employ.
NA = Not available. When data are weighted, these numbers will be calculated.

TABLE III-12.—MEAN MAXIMUM PERCENTAGE REDUCTION OF SLUDGE APPLICATION RATES POSSIBLE BY SIZE AND END USE AMONG THOSE WHO CAN REDUCE APPLICATION RATES

[In percent]

Reported flow group [a]	Mean application rate			
	Agricultural	Dedicated	Reclamation	Other
1	20		20	
2	30			
3	33	69		20
4	30	25		
Total	NA	NA	NA	NA

[a] Flow group 1 = > 100 MGD; flow group 2 = > 10-100 MGD; flow group 3 = > 1-10 MGD; flow group 4 = 0-1 MGD.
NA = Not available at this time. When data are weighted, these numbers will be calculated.

3. Characteristics of Distributed and Marketed (D&M) Sludge and POTWs Practicing D&M

EPA used a number of assumptions in the 1989 RIA about POTWs practicing D&M. These assumptions were investigated using data from the NSSS. Among these assumptions were: (1) All POTWs practicing D&M composted their sludge and incurred a current cost of D&M consistent with the expense of composting sludge; (2) the bulking ratio of compost bulk material to sludge was 2.5 to 1; (3) POTWs did not necessarily provide labels or handouts for their D&M products at this time; (4) the sludge was given away, not sold; and (5) POTWs that must shift disposal practices would shift to co-disposal and incineration. EPA should not have to rely on these generalizations in the revised RIA. The way in which NSSS data can be used in the revised RIA is discussed below.

Table III-13 investigates the frequency with which composting is employed by POTWs practicing D&M. Within each reported flow group, most POTWs appear to compost their sludge (POTWs that do not compost their sludge include those which use heat treatment). As would be expected, Table III-14 shows that the costs of composted sludge on a dry ton basis appear to exceed the costs of non-composted sludge (this observation can be tested statistically once weights have been applied). Thus, the revised RIA will take this difference into account when calculating the incremental costs of shifting disposal practices among the portion of facilities that do not compost their sludge. The revised RIA will also be able to account for POTWs that currently do not compost or heat treat their sludge to calculate potential costs associated with meeting Class A pathogen reduction requirements.

TABLE III-13.—PERCENTAGE OF POTWS PRACTICING D&M THAT COMPOST SLUDGE BY FLOW GROUP

Reported flow group [a]	No. of POTWs practicing D&M in survey	Compost sludge		Total responding
		No.	% [b]	
1	6	5	83.3	6
2	14	8	57.1	14
3	19	12	63.2	19
4	7	5	71.4	7
Total		30	NA	46

[a] Flow group 1 = > 100 MGD; flow group 2 = > 10-100 MGD; flow group 3 = > 1-10 MGD; flow group 4 = 0-1 MGD.
[b] Of those responding to this question.
NA = Not available at this time. When data are weighted, this number will be calculated.

TABLE III-14.—O&M COST PER DRY METRIC TON FOR D&M SLUDGE

Reported flow group [a]	No. of POTWs practicing D&M in survey	No. responding—do composting	Mean cost/DMT composted	No. responding—do not compost [b]	Mean cost/DMT not composted
1	6	5	$420	1	$262
2	14	8	123	5	176
3	19	10	916	6	90

TABLE III-14.—O&M COST PER DRY METRIC TON FOR D&M SLUDGE—Continued

Reported flow group [a]	No. of POTWs practicing D&M in survey	No. responding—do composting	Mean cost/DMT composted	No. responding—do not compost [b]	Mean cost/DMT not composted
4	7	4	1,734	2	32
Total		27	NA	14	NA

[a] Flow group 1=>100 MGD; flow group 2=>10–100 MGD; flow group 3=>1–10 MGD; flow group 4=0–1 MGD.
[b] Facility may heat treat.
NA=Not available at this time. When data are weighted, this number will be calculated.

EPA's assumption of a bulking agent ratio was critical to the calculation of the dilution factor, which in turn determined the concentration of pollutants in the final product. As Table III-15 shows, the assumption used in the 1989 RIA was most likely reasonable. Within the reported flow groups, bulking agent ratios range from a low of 2.3:1 to a high of 4:1 at the largest POTWs. EPA's assumed ratio of 2.5:1 is within this range. For the revised RIA, EPA will attempt to use the reported bulking ratio for each compliance cost POTW that composts its sludge to estimate dilution factors. Additionally, other factors such as the loss of moisture from the composting process will be taken into account to estimate the dilution factors.

In the 1989 RIA, EPA assumed that all POTWs practicing D&M would be faced with incremental costs associated with labeling and handout development. As Table III-16 indicates, however, it appears that a large number of POTWs may already be providing written instructions. The percentage ranges from 100 percent of those responding to the question in the largest flow group to 57 percent responding to the question among the smallest flow group.

TABLE III-15.—RATIO OF BULKING AGENT TO SLUDGE BY VOLUME

Reported flow group [a]	No. of POTWs in survey practicing D&M	No. responding	Mean ratio
1	6	5	4:1
2	14	8	2.3:1
3	19	12	2.4:1
4	7	5	2.6:1
Total	46	30	NA

[a] Flow group 1=>100 MGD; flow group 2=>10–100 MGD; flow group 3=>1–10 MGD; flow group 4=0–1 MGD.
NA=Not available at this time. When these data are weighted, this number will be calculated.

TABLE III-16.—WRITTEN USE INSTRUCTIONS PROVIDED BY POTWS

Reported flow group [a]	POTWs responding			
	No. of POTWs practicing D&M in survey	No. with written instructions	% of total	Total responding
1	6	6	100.0	6
2	14	11	84.6	13
3	19	11	61.1	18
4	7	4	57.1	7
Total	46	32	NA	44

[a] Flow group 1 = > 100 MGD; flow group 2 = > 10 – 100 MGD; flow group 3 = > 1 – 10 MGD; flow group 4 = 0 – 1 MGD.
NA=Not available at this time. When data are weighted, this number will be calculated.

The issue of labeling and handout costs will be reassessed in the revised RIA. EPA plans to consider whether a compliance cost POTW currently uses handouts or labels in determining incremental costs.

Table III-17 investigates whether sludge is predominantly sold or given away. The percentage of POTWs that sell sludge range from 60 percent in the largest flow group to 38 percent in the smallest flow group. The revised RIA will be able to take into account that at least a portion of a POTW's sludge may be sold. Thus the Agency will attempt to account for potential lost revenue among POTWs that sell a portion of their sludge if they must shift to alternative practices as a result of the Part 503 criteria. Table III-18 indicates the average prices obtained by POTWs in the survey for their sludge. The average ranges from $4 to $6 per cubic yard. Price, as reported by each compliance cost POTW, will also be taken into account, if possible, in the revised RIA.

TABLE III-17.—FREQUENCY OF SLUDGE GIVEN AWAY OR SOLD

[Multiple responses possible]

Reported flow group [a]	No. of POTWs practicing D&M in survey	No. of POTWs that give away		No. of POTWs that sell		Total responding
		No.	%	No.	%	
1	6	4	40.0	6	60.0	10
2	14	4	28.6	10	71.4	14
3	19	11	57.9	8	42.1	19
4	7	5	62.5	3	37.5	8

TABLE III-17.—FREQUENCY OF SLUDGE GIVEN AWAY OR SOLD—Continued

[Multiple responses possible]

Reported flow group *	No. of POTWs practicing D&M in survey	No. of POTWs that give away		No. of POTWs that sell		Total responding
		No.	%	No.	%	
Total		24	NA	27	NA	51

* Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

TABLE III-18.—MEAN PRICE PER U.S. TON OR CUBIC YARD OF SOLID SLUDGE

Reported flow group *	No. of POTWs practicing D&M in survey	Price per ton		Price per cubic yard	
		No. of POTWs responding	Price ($)	No. responding	Price ($)
1	6	3	63	4	5
2	14	4	34	3	6
3	19	0		6	4
4	7	0		3	6
Total	46	7	NA	16	NA

* Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=>0-1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

TABLE III-19.—PRACTICES POTWS MAY SHIFT TO IF D&M CANNOT BE PRACTICED

[Percentage of POTWs responding to the question that would Consider Shifting]

Reported flow group *	Co-disposal	Co-incineration	Land application	Incineration, new onsite	Incineration, onsite	Incineration, offsite	Monofill	Surface disposal	Other
1	50.0	0.0	50.0	16.7	0.0	3.3	0.0	0.0	0.0
2	45.5	0.0	44.4	0.0	11.1	11.1	11.1	11.1	0.0
3	46.7	0.0	60.0	0.0	0.0	28.6	0.0	6.7	28.6
4	33.3	0.0	57.1	0.0	0.0	33.3	0.0	0.0	20.0
Total	NA	NA	NA	NA	NA	NA	NA	NA	NA

* Flow group 1=>100 MFD; flow group 2=>10-100 MGD; floiw group 3=>1-10 MGD; flow group 4=>0-1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

Table III-19 investigates EPA's assumption about the use or disposal methods D&M POTWs may employ if D&M becomes impractical under the part 503 regulations (i.e., if the POTW determines that the application rate required to meet the criteria is not practical from an economic or agricultural standpoint). The table indicates that co-disposal, land application, and off-site incineration may be popular choices among most of the flow groups. EPA assumed in the 1989 RIA that some POTWs whose composted sludge was employed in non-agricultural end uses would simply reclassify themselves as land appliers. The 1989 RIA also assumed a shift to incineration. Co-disposal was not considered viable in the 1989 RIA because on average it is less expensive than composting and it was assumed that if co-disposal had been available, the POTW would not currently be practicing D&M. As the survey shows, however, some POTWs do not compost their D&M sludge and this sludge may have a lower cost/DMT for disposal. EPA has not yet determined whether the POTWs that indicated an interest in co-disposal are those which currently do not compost their sludge; this will be determined later. EPA will consider the possibility that some POTWs practicing D&M may shift to co-disposal as a compliance strategy. In fact, the Agency will try to consider all potential compliance strategies determined for the compliance cost POTWs in the revised RIA.

4. Characteristics of Incinerated Sludge and POTWs Practicing Incineration

EPA made a number of assumptions in the 1989 RIA about POTWs that incinerate sewage sludge and their incinerators. Some of these assumptions were:

(1) All incinerators were located on site;

(2) POTWs would add air pollution control devices to reduce pollutants rather than shifting to other methods of disposal as a means of compliance;

(3) All incinerators were either multiple hearth, fluid bed, or electric furnaces;

(4) All incinerators were assumed to have sludge feed rate monitors; 70 percent were assumed to have furnace temperature monitors and recorders; 30 percent were assumed to have feed rate monitors, pressure drop monitors and recorders, stack temperature monitors and recorders, and oxygen monitors; and no units were assumed to have hydrocarbon monitors or recorders; and

(5) No incinerators were assumed to have fabric filters (baghouses), wet ESPs, dry scrubbers with fabric filters or afterburners in place.

EPA will not have to make these types of assumptions in the revised RIA. Rather, the Agency plans to use the reported characteristics of those compliance cost POTWs practicing incineration to determine the compliance costs of meeting the Part 503 incineration requirements. The following sections summarize some of the results of the survey as they apply to the survey respondents.

Table III-20 indicates that most respondents noted they use an onsite incinerator; however, a few offsite incinerators are also employed. Costs of

sludge transport will be considered in the revised RIA for POTWs incincerating sludge offsite.

EPA's assumption in the 1989 RIA that pollution control devices would be used to bring incinerators into compliance is investigated in Tables III-21 and III-22. Of those POTWs responding, many indicated they would add pollution control devices to reduce sludge pollutants. Adding more pretreatment and improved instrumentation were also indicated frequently in most reported flow groups (see Table III-21). In addition to adding pollution control devices or other means of reducing pollutants, many POTWs that responded to the survey question about disposal practices noted that they would consider shifting to co-disposal or co-incineration (see Table III-22). In its compliance cost analysis for the revised RIA, EPA will consider the possibility that a POTW may shift to co-disposal or co-incineration rather than install costly air pollution control equipment.

TABLE III-20.—NUMBER OF INCINERATOR UNITS OPERATED BY POTWS

[Among POTWs Responding]

Reported flow group [a]	Total No. of incinerators [b]	Onsite	Offsite
1	35	35	0
2	48	48	0
3	36	23	13
4	1	0	1
Total	120	106	14

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.

[b] There are discrepancies between reports of numbers of incinerators and number of responses to the site-specific questions on the questionnaire. These discrepancies will be resolved before weights are applied.

TABLE III-21.—WHAT INCINERATING POTWS IN SURVEY WOULD DO TO FURTHER REDUCE POLLUTANTS IN SLUDGE

[Multiple Responses Possible]

Reported flow group [a]	Add pretreatment	Add pollution control devices	Improved instrumentation	Other changes to incinerator	Reduction of feed rate	Other	Total POTWs responding
1	6	5	4	0	1	0	7
2	22	17	18	7	4	2	32
3	19	16	12	2	1	2	28
4	1	0	0	0	0	0	1
Total	48	38	34	9	6	4	68

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.

TABLE III-22.—PRACTICES POTWS MAY SHIFT TO IF INCINERATION CANNOT BE PRACTICED

[Percentage of POTWs Responding to Question that would Consider Shifting—Multiple Responses Possible]

Reported flow group [a]	Co-disposal	Land Co-incineration	Application	D&M	Monofil	Surface disposal	Other
1	60.0	60.0	20.0	0.0	33.3	0.0	25.0
2	57.1	20.8	57.7	27.3	4.4	8.7	4.4
3	50.0	13.0	40.0	26.1	4.6	0.0	24.0
4	0.0	100.0	0.0	0.0	0.0	0.0	100.0
Total	NA	NA	NA	NA	NA	NA	NA

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

EPA considered the cost of retrofitting only three types of incinerators in the 1989 RIA: Multiple hearth, fluid bed, and electric furnaces, as Table III-23 shows, most POTWs responding indicated that they use these three types of incinerator units. Other types of incinerators are used but not as frequently. EPA will take the type of incinerator used by each compliance cost POTW into account when estimating costs of retrofitting pollution control equipment in the revised RIA.

As noted above, EPA made a number of assumptions regarding monitoring and recording equipment in the 1989 RIA. Based on Table III-24, it appears that some of these assumptions could have been conservative. Many units in the survey appear to have oxygen monitors and recorders, combustion temperature monitoring and recorders, and stack temperature monitors and recorders. Even a few appear to have hydrocarbon monitors. In the revised RIA, EPA will use the types of monitors and recorders in place at each of the compliance cost POTWs to calculate the incremental costs of requiring additional monitoring and recording equipment.

TABLE III-23.—TYPE OF INCINERATOR USED BY FLOW GROUP

Reported flow group [a]	Multiple hearth	Electric furnace	Fluid bed	Total other type	Total responding	No. of units
1	33	0	0	1	34	35
2	42	1	2	2	47	48
3	22	0	11	0	33	36
4						1

TABLE III-23.—TYPE OF INCINERATOR USED BY FLOW GROUP—Continued

Reported flow group[a]	Multiple hearth	Electric furnace	Fluid bed	Total other type	Total responding	No. of units
Total	97	1	13	3	114	120

[a] Flow group 1=>100 MGD; flow group 2=>10–100 MGD; flow group 3=>1–10 MGD; flow group 4=0–1 MGD.

TABLE III-24.—TYPES OF MONITORS AND RECORDERS USED

[Among POTWs Responding "Yes"]

Reported flow group[a]	Total No. of units	CO_2		O_2		Combustion temp.		Draft		Pressure drop		Sludge feed rate		Stack temp.		Hydrocarbons		Other	
		Mon.	Rec.	Mon.	Rec.	Mon.	Rec.	Mon.	Rec.	Mon.	Rec.	Mon.	Rec.	Mon.	Rec.	Mon.	Rec.	Mon.	Rec.
1	35	0	0	23	19	35	35	35	11	35	14	34	34	35	30	0	0	20	16
2	48	3	2	33	32	45	46	44	15	45	13	43	31	41	37	3	3	9	6
3	36	2	2	18	19	31	31	23	8	27	8	23	15	32	22	0	0	6	3
4	1																		
Total	120	5	4	74	70	111	112	102	34	107	35	100	80	108	89	3	3	35	25

[a] Flow group 1=>100 MGD; flow group 2=>10–100 MGD; flow group 3=>1–10 MGD; flow group 4=0–1 MGD.

EPA assumed in the 1989 RIA that no POTWs had wet ESPs, fabric filters (baghouses) or dry scrubbers with fabric filters. Table III-25 shows that these types of equipment appear uncommon among the POTWs responding to this question nor do many responding POTWs appear to be planning to add this type of equipment in the near future. Impingers, venturis, and venturi/impinger combinations appear to be common in most reported flow groups. EPA will note the existing pollution control equipment at each compliance cost POTW practicing incineration when performing the compliance cost analysis in the revised RIA.

Although EPA assumed no incinerators have afterburners in place, it appears that some incinerators do have afterburners (see Table III-26). EPA will take this fact into account when analyzing the compliance cost POTWs for the revised RIA.

TABLE III-25.—TYPES OF POLLUTION EQUIPMENT IN PLACE

Reported flow group[a]	Wet ESP[b]	Dry ESP[b]	Bag house	Dry cyclone	Impinger	Spray chamber	Venturi	Venturi/impinger	Venturi/packed tower	Wet cyclone	Cyclone/impinger	Other	None	Total No. of units
1	0	0	0	6	9	0	2	16	6	1	0	0	0	35
2	0	0	0	5	19	19	10	16	0	1	3	7	1	48
3	1	0	1	8	12	14	17	10	3	6	1	5	0	36
4														1
Total	1	0	1	19	40	33	29	42	9	8	4	12	1	120

[a] Flow group 1=>100 MGD; flow group 2=>10–100 MGD; flow group 3=>1–10 MGD; flow group 4=0–1 MGD.
[b] ESP=electrostatic precipitator.

TABLE III-26.—NUMBER OF INCINERATORS WITH AFTERBURNERS INSTALLED ON SYSTEM

[Among POTWs Responding to the Question]

Reported flow group[a]	Total No. of units	No. of incinerators without afterburners	No. with afterburner and heat exchanger	No. with afterburner, no heat exchanger
1	35	21	12	0
2	48	37	4	6
3	36	26	1	6
4	1			
Total	120	84	17	12

[a] Flow group 1 = > 100 MGD; flow group 2 = > 10 – 100 MGD; flow group 3 = > 1 – 100 MGD; flow group 4 = 0 – 1 MGD.

5. Characteristics of Monofilled Sludge and POTWs Practicing Monofilling

Because EPA estimated in the 1989 RIA that all monofills would fail the part 503 criteria, the Agency made very few assumptions in developing compliance costs for this practice. The monofill criteria, however, were developed based on an assumption that the monofill is located either at zero or one meter above ground water depending on the class of ground water over which the

monofill is located. The regulation allows for site-specific modeling to determine alternative criteria and allows for the actual depth to ground water to be used in place of this assumption. EPA did not determine which monofills might pass site-specific criteria in the 1989 RIA, but the Agency will attempt to use data from the NSSS to create site-specific criteria on which to base the pass/fail analysis in the revised RIA. Table III-27 indicates that some POTWs may benefit from site-specific criteria, since many report greater than one meter depths to ground water. The revised RIA will use the depth-to-ground water data to construct site-specific criteria for any of the compliance costs POTWs practicing monofilling that fail the non-site-specific criteria presented in the regulation.

The 1989 RIA assumed that POTWs practicing monofilling would shift to co-disposal and incineration. Table III-28 indicates that among the three flow groups reporting, this assumption probably was reasonable. Again, compliance strategies will be investigated on a POTW-by-POTW basis in the compliance cost analysis for the revised RIA.

TABLE III-27.—DEPTH TO GROUNDWATER AT MONOFILLS BY FLOW GROUP

[No. of POTWs]

Reported flow group [a]	No. of POTWs practicing monofilling in survey	No ground-water	Meters						Total respond-ing
			0	0–0.5	0.6–2	2.1–8	8.1—12	>12	
1	1	0	0	0	0	0	0	1	1
2	9	0	0	1	3	2	0	4	9
3	12	1	0	1	6	1	1	1	11
4	9	1	1	1	1	3	0	1	8
Total	31	2	1	3	10	5	1	7	29
Percent of Total		NA	NA	NA	NA	NA	NA	NA	NA

[a] Flow group 1=>100 MGD; flow group 2 =>0–100 MGD; flow group 3=>1–10 MGD; flow group 4=0–1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

TABLE III-28.—PERCENTAGE OF POTWS THAT WOULD CONSIDER SHIFTING TO ALTERNATIVE PRACTICES IF MONOFILLING IS UNAVAILABLE

[Among POTWs that are Monofilling According to Questionnaire Response]

Reported flow group [a]	Co-disposal	Co-incineration	D&M	Incineration—new, onsite	Incineration, onsite	Incineration, offsite	Land app.	Surface disp.	Other
1									
2	33.3	0.0	16.7	16.7	0.0	37.5	33.3	0.0	0.0
3	20.0	0.0	33.3	33.3	11.1	22.2	11.1	0.0	0.0
4	25.0	14.3	0.0	0.0	0.0	37.5	28.6	0.0	57.1
Total	NA	NA	NA	NA	NA	NA	NA	NA	NA

[a] Flow group 1=>100 MGD; flow group 2=>10–100 MGD; flow group 3=>1–10 MGD; flow group 4=0–1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

6. Characteristics of Surface-Disposed Sludge and POTWs Practicing Surface Disposal

Two types of POTWs are covered by the part 503 regulations governing disposal of sewage sludge at surface disposal sites: (1) Those which use a sludge pile, impoundment or other type of surface site as the ultimate disposal site for their sludge; and (2) those which store sludge for a period of one year or more, including indefinitely. Some sludge storers may ultimately dispose of their sludge using some other method of disposal (including another form of surface disposal). Each of these two types of POTWs is discussed below.

a. *Surface Disposal*—While developing the 1989 RIA, EPA determined that information on surface disposal was minimal in the Needs Survey. EPA, therefore, assumed that POTWs that indicated "other" sludge disposal in the EPA Needs Survey might be using surface disposal. EPA further assumed that only POTWs using facilities such as stabilization ponds, containment ponds, and drying ponds are using these facilities for disposal or long-term storage. All other POTWs that were listed in the Needs Survey as using "other" types of disposal were identified as using aeration lagoons, drying beds or other types of treatment processes and were eliminated from the analysis, since the sludge use and disposal regulations are not intended to cover sludge that is generated during a treatment process. Only after the sludge has been removed for disposal from a treament facility or system do the regulations apply. EPA believed, however, that some of the POTWs using non-treatment methods of storage/disposal (e.g., stabilization ponds, containment ponds and drying ponds) might actually be treating the sludge, so EPA assumed that only 50 percent of the POTWs identified as appearing to use non-treatment methods were practicing surface disposal of sewage sludge. The total number of surface disposers was thus estimated at 2,395 surface disposers nationwide.

EPA has now estimated the number of POTWs practicing surface disposal based on the NSSS. Table I-4 in part I of today's notice presents these esitmates. A total of 3,147 secondary treatment POTWs (at a 95 percent confidence interval of 2,345 to 3,946 POTWs) are believed to be using surface disposal or sludge lagoons. EPA's estimate in the 1989 RIA of the number of surface disposers thus appears to have been

reasonable based on the estimate derived using the NSSS data. Some of the sludge lagoons reported in the NSSS, however, may actually be treatment lagoons, so the estimate of surface disposers based on the NSSS may somewhat overstate the number of facilities that are covered by the regulation. EPA will be attempting to determine more clearly which lagoons reported in the NSSS are disposal lagoons and which are treatment lagoons.

Unlike the individual sections for each of the other use and disposal practices, the NSSS questionnaire did not include a separate section asking for detailed information regarding surface disposal. The Agency needs additional data to answer a number of questions:

—Description of the surface disposal site: pile, lagoon, pond?
—On average, how many surface disposal sites would one POTW have?
—What proportion of surface disposal sites are waste piles? Lagoons? Ponds? Other types of disposal?
—What types of discharge controls are typically found at surface disposal sites, such as leachate collection or treatment, synthetic or natural liners, methane monitoring and controls, monitoring wells, cement pad (for sludge piles), runon/runoff controls?
—What would surface disposers use to control releases of pollutants from surface disposal sites (if not present already): Liners and leachate collection systems? Additional pretreatment requirements for industrial dischargers that are the source of problem pollutants? Installation of runon/runoff controls? Other?
—If surface disposal were no longer a viable option, what alternative disposal options might many surface disposers consider?
—What is the typical life of a surface disposal site?
—What percentage of surface impoundment sites are on-site at the facility vs. off-site? If off-site, what are typical transportation distances?
—What is the typical depth to groundwater at a surface disposal site? Is it greater than one meter in most cases?
—What is the percent solids of sludge when it is placed in the surface disposal site? If the sludge is removed from the site, what is the percent solids at the time of its removal?

The Agency will attempt to gather additional data and solicits comment and information regarding management practices and potential compliance strategies related to surface disposal.

Sludge Storage—The EPA Needs Survey provided little usable information about sludge storage, so the 1989 RIA did not address this issue. The NSSS appears to indicate that most storage of sewage sludge is short-term, i.e., the sludge is stored for less than a year and is thus not covered by the proposed Part 503 regulations pertaining to surface disposal. As Table III-29 shows, within each reported flow group, of those facilities that do store sludge, the percentage storing their sludge for less than a year ranges from 51.6 percent in the smallest flow group to 77.2 percent in the 1-10 MGD flow group. Long-term storage is defined as storage occurring for a year or longer, and these POTWs would be covered by the regulation as surface disposal facilities. Many of the facilities that appear to store sludge for one year or more ultimately dispose of their sludge using another method of disposal (relatively few POTWs in the survey indicated that they store sludge indefinitely, see Table III-29).

Additionally, not all types of storage reported in the NSSS are considered to be covered under the part 503 Regulations. Of those storage types reported in Table III-30, only sludge piles, sludge storage impoundments and a very few "other" types are considered to be covered. Most of the POTWs reporting that they use "other" types of storage indicated that they used silos, in-ground tanks, and aeration lagoons or other treatment lagoons, all of which are not covered by the regulation. Thus in each reported flow group, many survey POTWs would appear to be unaffected by the regulations because of the type of storage that they practice.

TABLE III-29.—NUMBER OF SURVEY POTWS BY DURATION OF STORAGE

Reported flow group[a]	Less than 1 year		1-2 years		2-5 years		5-10 years		>10 years		Indef.		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%h	
1	9	64.3	1	7.1	3	21.4	1	7.1	0	0.0	0	0.0	14
2	41	70.7	5	8.6	5	8.6	0	0.0	2	3.4	5	8.6	58
3	78	77.2	8	7.9	6	5.9	2	2.0	1	1.0	6	5.9	101
4	48	51.6	4	4.3	6	6.5	2	2.2	8	8.6	25	26.9	93
Total	176	NA	18	NA	20	NA	5	NA	11	NA	36	NA	266

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

TABLE III-30.—NUMBER OF SURVEY POTWS STORING SLUDGE

[Multiple responses possible]

Reported flow group[a]	Sludge pile	Sludge storage impoundment	Above-ground tank/container	Other	Total responding	Total No. of storage practices
1	3	5	7	2	14	17
2	11	14	34	4	58	63
3	36	17	44	8	96	105
4	24	17	31	18	87	90
Total	74	53	116	32	255	275
Percent of Total Practices	NA	NA	NA	NA		

[a] Flow group 1=>100 MGD; flow group 2=>10-100 MGD; flow group 3=>1-10 MGD; flow group 4=0-1 MGD.
NA=Not available at this time. When data are weighted, these numbers will be calculated.

The percentage of sludge storers that will not be affected by the regulations because they either store sludge for less than a year or store for more than a year as a part of a treatment process or in some type of tank or silo cannot accurately be determined until survey weights are applied to these results, but EPA believes that many POTWs that store sludge probably will be unaffected by the part 503 regulations covering surface disposal of sludge. The revised RIA, however, will take into account whether a compliance cost POTW stores sludge on-site for more than one year in a sludge pile or impoundment in order to calculate additional costs of either reducing storage times or using, for example, above-ground tanks for sludge storage in the event the POTW's sludge does not meet the surface disposal criteria.

Additional data on long-term sludge storers, such as management practices and potential compliance strategies, will be developed later after additional information is gathered and evaluated. The Agency solicits comments regarding storage practices and potential compliance strategies for facilities storing sludge for longer than one year.

7. Disposers of Primary Sludge

Although the Agency contends that primary treatment facilities will be obsolete in the near future, there are likely to be impacts associated with these facilities as a result of the part 503 regulations.

The NSSS was not designed to capture information on primary treatment facilities or on secondary facilities that generate primary sludge that is disposed of separately from their secondary sludge. The NSSS does, however, have some very limited information on primary sludge because a few responding facilities that were believed to be secondary treatment facilities were found to be primary facilities. The Agency has also obtained information from other sources as well but is hoping to supplement this data with other available information to better formalize conclusions regarding typical disposal practices, sludge quality, plans for changes to sludge disposal practices as POTWs upgrade to secondary treatment, viable alternatives to current disposal practices, etc.

Two types of primary sludge producing POTWs are of interest. EPA believes that most secondary POTWs combine their primary and secondary sludges at some point in the treatment process, but that some secondary treatment facilities are known to dispose of their primary and secondary sludges separately. In the case of POTWs that use aeration lagoons to provide secondary treatment, secondary sludge is dredged and disposed of very infrequently, but primary sludge may be disposed of on a regular basis. EPA would like additional information that will further support the assumption that this practice is typical at POTWs with treatment lagoons and whether there are other types of treatment facilities also practicing separate primary and secondary sludge disposal. Further, the Agency is soliciting additional information regarding the methods typically used to dispose of primary sludges and any viable alternatives that could be used if the current methods of disposal were no longer available after promulgation of the part 503 regulations. The Agency is soliciting information on primary sludge quality; particularly in comparison to the quality of secondary sludge at the same facility. The Agency believes that in general, primary sludge contains lower pollutant concentrations than secondary sludge.

The second type of facility on which EPA would like to obtain additional information are facilities that are still operating as primary treatment facilities. EPA solicits available information on current sludge disposal practices at primary treatment POTWs, whether primary treatment POTWs have plans for changing to other disposal methods when upgrading to secondary treatment and which disposal methods are under consideration, how many primary treatment POTWs plan to upgrade to secondary treatment within the next year or two, general information on sludge quality, and viable alternative disposal options that could be used if the current methods of disposal were no longer available.

Other Methodologies That Will Be Incorporated Into the Revised RIA

New information will be used to develop additional data to augment the pretreatment analysis and to modify the approach for analyzing the impacts of the regulation on small entities (the regulatory flexibility analysis). Furthermore, EPA plans to provide estimates of impacts on the septage hauling industry and on households and other entities using on-site septic systems. The methodologies developed for these three analyses are discussed below. Comments on these methodologies are solicited.

1. Pretreatment Methodology

As indicated in the proposed regulations, EPA believes that industrial pretreatment will be a means of compliance for many municipalities, but has lacked sufficient information to make a quantitative assessment of the number of POTWs that can and will use pretreatment to comply with the part 503 regulations.

For the initial regulatory impact analysis, EPA analyzed eight POTWs with pretreatment programs to determine the effect of stricter pretreatment measures on a POTW's ability to comply with the sewage sludge use and disposal criteria. The eight case studies considered the effect of categorical pretreatment standards, and when applicable, more stringent technologies. At each POTW, the annual loading rates of several pollutants were estimated for each industrial contributor. Then, the effect of additional pretreatment control was determined by estimating the reduction in pollutant loadings attributable to these controls. EPA obtained information on pretreatment technologies and their pollutant-removal efficiencies from the technical support documents for the effluent guidelines for various industries.

The case-study analysis and its conclusions were limited by several factors: (1) The site-specific nature of the analysis made it difficult to extrapolate any results to all POTWs; (2) the results were dependent on the type and size of dischargers; and (3) improvements in sludge quality could only be estimated from those industries covered by specific pretreatment regulations (categorical industries). Further, the pollutant removals calculated were limited to those contaminants for which categorical pretreatment standards have been established (primarily metals).

To expand on this limited analysis, the Agency collected industrial waste surveys from a sample of POTWs drawn from the population of POTWs in the analytical portion of the NSSS. Using these industrial waste surveys, POTW sludge quality data from the NSSS, and additional data on treatment efficiencies that may be available, the Agency plans to expand the analysis to all regulated contaminants discharged by both categorical and noncategorical industries for which adequate information can be developed. In addition, EPA plans to assess the potential costs associated with using industrial pretreatment where pretreatment is shown to be a feasible means of compliance. The Agency intends to conduct the analysis using the three-staged methodology described below. EPA invites comment on this analysis.

a. *Data for the Pretreatment Analysis*—(1) *Industrial Waste*

Surveys—To obtain information on the industrial pollutant loadings to POTWs with existing pretreatment programs, EPA contacted all POTWs in the analytical survey reporting total flow over five MGD (i.e., those required to institute pretreatment programs) and requested 1988 data on organic and inorganic pollutant concentrations in the industrial influent to the POTW from each significant categorical and noncategorical industrial discharger. POTWs with flow under five MGD were eliminated because they lack either significant industrial dischargers or information on influent pollutant concentrations from their industrial users. Data received from responding POTWs included for each industrial discharger: (1) The industry name; (2) Standard Industrial Classification (SIC) code; (3) the Code of Federal Regulations (CFR) number (which refers to the part of the pretreatment regulations covering that particular industry) if the discharger is a categorical industry; (4) flow rate; and (5) pollutant concentrations. Approximately 30 POTWs, of a total of 54 POTWs contacted, responded to EPA's request for information. EPA will attempt to obtain more surveys, if possible, from the remaining 24 POTWs.

(2) *National Sewage Sludge Survey (NSSS)*—Information on the current sludge quality of POTWs chosen for the pretreatment analysis will be obtained from the NSSS.

(3) *Pollutant Removal Efficiencies*—EPA will obtain data on the additional pollutant removal potential for individual pretreatment technologies from various sources. The technical support documents for the effluent guidelines will provide data on potential removal efficiencies for technologies appropriate for these categorical industries. For non-categorical industries, EPA will use the Toxic Chemical Release Inventory (TRI) data base to determine if removal rates achieved by similar industrial users, including industries discharging directly to a water body, are available. TRI will also be used for categorical industries, where possible, to determine if additional information on organic chemicals may be available.

b. *The Three-Staged Methodology*—This methodology closely resembles the methodology used for the eight case studies in the regulatory impact assessment. However, in this analysis, EPA plans to use the data discussed above on categorical and noncategorical industry removal efficiencies and organic pollutants to perform 8 to 12 case studies to determine the feasibility and cost of using pretreatment as a means of compliance. In addition, using analytical data from NSSS, EPA plans to extrapolate some results of the analysis to the entire populations of POTWs with current pretreatment programs. For example, EPA plans to determine:

(1) The number of pretreatment POTWs that have sludge that will exceed the proposed use and disposal criteria for their current sludge use and disposal method; and

(2) The number of the pretreatment POTWs that could not attain compliance for their current use and disposal method even when the industrial flow component of the POTW's wastewater is removed from the calculation of pollutant loadings.

Stage 1—Initial Pass-Fail Analysis—Using sludge quality profiles of pretreatment POTWs in the NSSS analytical data base, EPA will conduct a pass-fail analysis to determine which POTWs fail the proposed criteria for their current method of disposal and the overall percentage of pretreatment POTWs failing. EPA will use the analytical survey data collected from each POTW for comparison with the proposed criteria to determine compliance. If any one pollutant exceeds the proposed numerical criteria, the POTW's sludge fails for that disposal method. Analysis in Stages 2 and 3 will be performed only on POTWs that fail the initial analysis.

Stage 2—Pass-Fail Analysis Without Industrial Flow—Using data from POTWs who responded to EPA's request for industrial waste surveys, EPA will:

(1) Re-estimate sludge quality data assuming pollutant loadings attributable to industrial flow are eliminated; and

(2) Perform the pass-fail analysis on the revised sludge quality to determine how many POTWs would fail the proposed criteria due to domestic pollutant loadings alone.

The POTWs that fail at this stage are not candidates for attaining compliance through additional pretreatment actions and no further analysis will be performed on this group. However, the percentage of such POTWs will be noted in the revised RIA.

Stage 3—Pass-Fail Analysis With More-Stringent Pretreatment—For POTWs that pass Stage Two above (i.e., they pass the criteria if all industrial contributions are removed), EPA will determine which industries—of those discharging the pollutants which exceed the regulatory limit—could, theoretically, reduce loadings to the POTW by installing or upgrading pretreatment equipment. EPA will then make quantitative estimates of potential reductions of the critical pollutants (those for which the POTW fails to meet the criteria) in the sludge. Because categorical industries typically have higher pollutant concentrations than non-categorical industries, EPA will calculate potential reductions from categorical industries initially, and then will calculate potential reductions from non-categorical industries if necessary (i.e., if the POTW still fails to meet the criteria).

In calculating removals in both Stage 2 and 3, EPA will assume that the percentage reduction in pollutants attributable to the POTW remains constant despite declines in pollutant concentrations following installation of more efficient treatment technology. In this approach, pollutant removal rates attributable to the POTW do not have to be known. EPA recognizes one limitation with this approach is that POTW removal efficiencies tend to decline with influent concentration. As removal efficiency declines and the level of pollutants removed from the wastewater is lowered, relative sludge quality would be improved. The constant removal efficiency assumption could, for this reason, result in the analysis understating the number of POTWs able to pass the sludge criteria, although EPA does not believe this underestimation will be large. EPA solicits comments on this assumption.

c. *Calculating Costs*—The total cost of installing stricter pretreatment technology will be determined for each industrial contributor and summed for each POTW that passes the sludge criteria following implementation of stricter pretreatment requirements. As in the 1989 RIA, incremental capital and annual operating and maintenance costs will be calculated for each pretreatment option. Costs are defined as: (1) The cost of upgrading from existing requirements to more stringent treatment for categorical industries (including those currently in noncompliance with PSES standards); and (2) the cost associated with a non-categorical industry installing pretreatment equipment for the first time. EPA will attempt to extrapolate costs to the national level.

2. Methodology for Determining Impacts on Septage Haulers

As indicated in section 503.4, the proposed part 503 regulations will apply to septage pumped and collected from household septic tanks. EPA included the use or disposal of septage in these regulations because of its concern with the levels of pathogenic organisms that may be present in septage, and

inorganic and organic pollutants in septage, although probably at a lower concentration than in sludge. As indicated in the proposed regulations, EPA is also concerned, however, that requiring septage haulers to comply with the current regulations might be unduly burdensome. This section focuses on information pertinent to determining cost impacts on septage haulers.

To evaluate potential impacts and to determine if the regulation should be modified to reduce undue negative effects, EPA solicited information from the States on the number of haulers, the amount of septage hauled, and the breakdown by type of disposal practice. Although EPA did receive some information from the States, in many cases the data were incomplete and there were too few States with complete data to allow for extrapolation to all fifty States. To better estimate the number of haulers and volumes hauled, EPA supplemented State data with additional sources of information such as industry publications and previous EPA estimates. EPA solicits comments on the estimates developed from these sources.

At this time, based on these estimates, EPA believes there are approximately 17,000 septage haulers in the U.S. who haul and dispose of a total of 8.6 billion gallons of septage annually. These estimates do not, however, include septage from commercial tanks, portable toilets, holding tanks, etc. EPA has also determined from information provided by the States, that approximately 51 percent of septage is disposed of at POTWs. Another 20 percent of septage is land applied. The remaining disposal methods for septage include: lagoons (13%), distribution and marketing (8%), and landfill (8%). It appears to be common for septage haulers, particularly small and medium sized haulers to use more than one method of disposal. Many haulers land apply a portion of collected septage and dispose of the remainder at a local POTW.

Based on this information on current disposal practices, EPA may limit the regulatory impact analysis to the two disposal options (POTW disposal and land application) that account for approximately 71 percent of all septage disposal to simplify the analysis. The Agency solicits comment on this decision.

a. *State Regulations*—States regulate the specific septage disposal practices to varying degrees. In estimating baseline costs of septage disposal, EPA will use the following information on State disposal regulations to determine current operating practices of septage haulers.

(1) *Disposal at POTWs*—Of the 40 States responding, only two indicated that septage *must* be disposed of at a POTW. Additionally, one State mandates septage to be disposed of either at a POTW or at a special treatment plant. Six other States had either programs or regulations designed to encourage disposal of septage at POTWs, including provisions requiring POTWs to accept septage and for local governments to either provide disposal sites or develop management plans for septage disposal.

(2) *Land Application*—Of 40 States providing EPA with information on current septage regulations, 22 States allow (or do not forbid) land application of untreated septage. An additional five States allow land application of septage but require the septage to meet pathogen reduction requirements (as set forth in 40 CFR part 257) before being land applied. Six of the responding States forbid land application of septage. Of the 27 States that allow land application of either treated or untreated septage, 12 have no application rate standards. Fourteen States do have specific application rates, four of which have site- or crop-specific rates.

(3) *Landfill*—Two States reported regulations prohibiting disposal of septage at landfills.

b. *Preliminary Industry Profile*—To assess the potential impact of the proposed regulations on septage haulers, EPA developed a preliminary industry profile, including breakdowns of size, type, and average annual volume handled. Based on the distribution of sizes among the data provided by the States, the 17,000 estimated haulers nationwide can be classified as follows:

- 11,050 (65%) are small haulers who haul, on average, approximately 0.1 million gallons annually;
- 5,100 (30%) are medium haulers who haul, on average, approximately 0.8 million gallons annually; and
- 850 (5%) are large haulers who haul, on average, approximately 4.0 million gallons annually.

In addition, EPA has been developing economic profiles of these three size classifications of septage haulers that will be used to estimate baseline and incremental costs when calculating regulatory impacts. The three model firms developed by EPA are described below:

Small Firm—A small pumping firm is a part-time business. The owner-operator has no employees, although a family member may assist with bookkeeping or other work. The business owns one small truck with the capacity to haul 1,500 gallons, which was bought second-hand and is maintained by the owner. A small firm services a 25-mile radius, and during the 90 days of actual operation per year, pumps 100 home septic tanks, hauling a total volume of 100,000 gallons. The average daily round trip, including septage pick-up and disposal, is 30 miles; the truck therefore travels 2,700 miles per year. Most of the septage (90%) is applied on land either owned, rented, or used under a fee arrangement by the pumper, but during bad weather (when State regulations forbid land application, and business declines) septage is disposed of at a POTW.

Medium Firm—A medium pumping firm is a full-time business, with one employee assisting the owner-operator. The business owns two trucks, each holding 2,000 gallons, and services three septic tanks per day from April through November, and half that amount in December through March, within a 35-mile radius. Medium-size firms may occasionally collect septage from commercial firms, but most of their business comes from homes. Each truck travels about 80 miles per day, collecting septage and either spreading it on land or disposing of it at a POTW. The full-time schedule (320 days per year) allows the medium-size firm to handle about 800,000 gallons a year. Half of the waste is disposed at a POTW and half is land-applied.

Large Firm—A large firm may be involved in other trades as well as in septage, but septage pumping and hauling remains the largest portion of the business. The firm is usually owner-operated, with four employees (and the owner) and four 4,000 gallon trucks servicing a radius of 50 miles. Each truck services one to two home tanks and one commercial system daily. A large firm collects 2.5 million gallons of home septage and 1.5 million gallons of commercial septage annually, for a total volume of about 4 million gallons. Because of the large volume, the large firm land applies only 25 percent of the septage, disposing of 75 percent in POTWs. Each truck travels about 150 miles per day (48,000 miles/year) to service tanks and dispose of the septage. Firms that would have to travel farther to dispose of septage at a POTW lease or rent large storage tanks (about 10,000 gallons) that are then hauled to POTWs by another trucking company.

EPA invites comment on any of the assumptions underlying these three profiles of septage haulers.

c. *Capital Costs and Operating and Maintenance Costs*—In order to estimate regulatory impacts on septage haulers, EPA will need information on the capital costs and operating and

maintenance costs facing septage haulers in order to assess how new regulatory requirements will increase these costs. Although information on these costs were not readily available, EPA was able to develop some information on septage hauler charges. EPA intends to use this information, to the extent possible, to determine upper limits on the capital, operating and maintenance costs. These upper limits will be used with the assumptions underlying the three septage hauler profiles to calculate costs to haulers. EPA invites comments on the septage hauling charge information.

Charges for emptying tanks vary widely around the U.S. ranging from a low of $30 to a high of $225 (in Massachusetts). Prices generally show a strong regional correlation. Prices sometimes vary by firm size, with the smallest firms charging less than larger firms. Small pumpers have lower overheads: their equipment is older, often purchased second-hand, and is currently fully depreciated. Furthermore, the owner is usually the only employee, there are fewer problems disposing of their small volume of sludge, and the owner often operates only to supplement a full-time job. The State or local control of licenses, combined with small service areas (typically a 25- to 50-mile radius), may limit competition, allowing price variations within a region.

d. *Assessing Regulatory Impacts on Septage Haulers*—EPA will need information additional to that outlined above in order to fully assess the regulatory impacts of the proposed regulations on septage haulers. EPA needs to develop potential compliance strategies for septage haulers. At this time, it is difficult for EPA to determine if it is practically or technically feasible for septage haulers to either modify their existing disposal practice or to shift to an alternative practice, such as taking septage to a POTW, if requirements or management practices are perceived as too costly. If shifting is feasible, EPA will need to determine which alternative practices septage haulers could shift to and the costs associated with such a change. EPA invites comments on the potential compliance strategies available to septage haulers and the costs associated with these strategies.

e. *Assessing Regulatory Impacts on Households using On-site Septic Systems*—EPA will assume that incremental costs are passed through to households and other entities using on-site septic systems. Impacts will be estimated as increases in the price of septage tank cleaning.

3. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (Pub.L. 90–34), which amended the Administrative Procedures Act, 33 U.S.C. § 551, *et seq.*, requires federal agencies to consider the effect of its rules on small entities. Agencies must consider alternatives to rules to minimize the economic impact on small entities to the extent consistent with the stated objective of the statute under which such rules are developed. However, the requirements of the Regulatory Flexibility Act (RFA) do not alter standards otherwise applicable to agency action. As previously noted, CWA Section 405 requires EPA to promulgate regulations that are adequate to protect public health and the environment against reasonably anticipated adverse effects. In developing the regulations, EPA will consider effects on small entities to the extent consistent with the CWA requirements.

EPA plans to expand its small entity impact analysis of the Part 503 sewage sludge use and disposal regulations, which will include both POTWs and septage haulers. The methodology outlined here meets the requirements for a regulatory flexibility analysis as specified in the "Guidelines for Implementing the Regulatory Flexibility Act."

The first step of the analysis is to consider whether a full regulatory flexibility analysis is warranted based on the number of small entities affected by the regulation and based on the magnitude of the impacts expected. This step entails defining "small entity." According to the RFA, the Agency may establish its own definition of small entity. For the revised RIA, EPA will continue to define a "small entity" as represented by a POTW processing one MGD of wastewater or less, which corresponds roughly to a community of under 10,000 inhabitants. This definition is used frequently throughout the Agency, and the precedence for its use will be documented in the revised RIA. EPA will also define all septage haulers as small entities, unless further work indicates that this definition is inappropriate. The justification for this definition will also be presented in the revised RIA.

EPA's next step will be to make a determination of whether a substantial number of small POTWs or septage haulers will experience "significant impacts." EPA will use the RFA's definition of substantial—more than 20 percent of all small entities as defined. EPA will also consider impacts to be substantial if "hundreds" of small entities are affected or if very few entities are affected by very significant impacts.

EPA will define significant impacts as they are defined in the RFA:

- Annual compliance costs increase total costs of production by more than 5 percent; and
- Capital costs of compliance represent a significant portion of capital available to small entities considering internal cash flow plus external financing capabilities.

Two other definitions are also presented in the RFA but they require some modifications before they can be applied to this analysis.

EPA will adjust one definition (since POTWs do not have "sales") to determine whether compliance costs passed through to households served by small POTWs (on a per-household basis) are at least 10 percent higher than those associated with larger POTWs. This analysis is not relevant for septage haulers, since at this time, EPA plans to consider all septage haulers as small entities. The last definition of substantial impact is the effect of the regulation on closures. EPA will not use this definition for POTWs, since closures are not appropriate measures for publicly owned utilities. EPA will, however, determine whether closures are likely among septage haulers as a result of the part 503 regulations.

If EPA makes a determination of no significant impact, a full regulatory flexibility analysis will not be undertaken. However, if EPA determines that there is significant impact, the regulatory flexibility analysis will cover all required analyses as outlined in the "Guidelines for Implementing the Regulatory Flexibility Act." These requirements include such items as identification of alternatives that would minimize impact of the regulation on small entities, a cost analysis that will identify all costs for small entities associated with each of the alternatives, and an analysis showing whether small POTWs are affected disproportionately in each significant alternative.

Part IV: Availability of Survey Information and Data

Availability of Documents

Data and information from the National Sewage Sludge Survey are available as printed documents or computer files. Printed copies of the Analytical Survey (PB 90–107491; Cost $139.95), and Questionnaire Survey (PB 90–107509; Cost $97.95) may be ordered from the National Technical Information

Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, ATTN: Sales, telephone No. (703) 487–4650. Please specify PB number when ordering.

Computer copies of the data base for the National Sewage Sludge Survey are also available, from the National Technical Information Service, in either of the following options:

(a) *Computer access* to the EPA National Computer Center (NCC), which houses the primary copies of the data base in the format of the SAS system for statistical analysis, is available on a fee for service basis. In order to open an account with NTIS on the NCC system, state that you wish to access the data base for the National Sewage Sludge Survey.

(b) *Computer tapes* of the data base are available for a fee from NTIS. These are nine track tapes, written in SAS transportable code at 1600 bpi, with logical record lengths of 80 and block sizes of 8000. The tapes were written under the OS operating system but they should also be readable by CMS, VSE, AOS/VS, PRIMOS, and VMS. The NTIS order number is PB 90–501834 and the current price is $220.

Persons requesting a computer copy, under either option, will want the *National Sewage Sludge Survey: Data Element Dictionary for the Questionnaire and Analytical Data Bases.* The dictionary contains definitions and specifications for all variables in the data base. The NTIS order number is PB 90–198961 and the current price is $23 for paper copies and $8 for microfiche. The address for ordering is as follows: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone: (703) 487–4650.

Additionally, a technical support document for the numerical results of the National Sewage Sludge Survey is available at no charge (limit one copy per request) by writing to: Nancy Talbot, Dynamac Corporation, 11140 Rockville Pike, Rockville, Maryland 20852; or by phoning (301) 468–2500, Ext. 6104.

Format of Survey Report

Analytical Results—The report format for the analytical portion of the survey is organized by POTW and EPA Region. The analytical data is grouped by analyte type i.e., classicals, metals and inorganics, volatile organics, semi-volatile organics, pesticides including PCBs, and dioxins/dibenzofurans. Analytical data is presented as line items. Each line consists of: (1) The analyte name; (2) its Chemical Abstract System (CAS) number; (3) a sample number; (4) its concentration on a dry weight basis in either percent, mg/kg, ug/kg or ng/kg; (5) analytical level of detection; (6) indication of whether a duplicate sample was taken and analyzed; and (7) analytical units reported.

There are approximately 40 analytical lines to a page. Therefore, a report for the analysis of a sludge from a single POTW is approximately 10 pages. If two samples or a duplicate sample (for QA/QC) were taken at a POTW, the number of pages doubles.

Questionnaire Results—For the purposes of data analysis, the responses to the questions are presented as coded data which can be converted back to individual questionnaire responses by consulting the Data Element Dictionary which is provided with this data base.

Questionnaire results are organized by facility. The facilities are arranged by States in alphabetical order. Each facility is organized in seven sections which corresponds to individual sections in the questionnaire. Section Number I contains facility characteristic information such as wastewater flow size, POTW location and financial information. Sections II–VII correspond to specific sludge use and disposal practice sections of the questionnaire. POTWs with only one sludge use or disposal practice will respond to only one of the appropriate sections of the questionnaire.

Because there are a number of questions in Section I, the Section is divided into eleven (11) sub sections. At the beginning of each subsection there is an index which identifies the variables, corresponding to individual questions, that are contained in the subsection. For example, Subsection I.1 contains the responses from all States for Questions 1 through 3(e) in the questionnaire; Subsection I.2 contains the responses for Questions 3(f) through 9(b)(4) OTHER, and so on for the remaining 11 sections.

All of the sections corresponding to specific use and disposal practices, with the exception of section III (distribution and marketing), are divided into two (2) subsections. For sections II (land application), IV (incineration), V (monofill), and VI (co-disposal landfill) each subsection 1 corresponds to general information regarding the specific practice and subsection 2 corresponds to individual or multiple sites within the specific practice. More specifically, section II.1 corresponds to responses to the questions in Part A—Land Application in the questionnaire and section II.2 corresponds to those in Part B for Land Application. Section VII (ocean disposal) is divided into two subsections only because of the number of questions in the section. Section VII.1 contains the responses to Questions 1 through 9 and section VII.2 contains responses to questions 10 through 19(j) in section VII in the questionnaire. Similar to section I, there is an index at the beginning of each subsection which identifies the variables, corresponding to individual questions, that are contained in the subsection.

To review all responses for any one facility, one determines the facility identification number and reads across the line of coded responses for each appropriate section of the data base. To review all responses for a particular question from a nationwide perspective, one reads down a column of coded responses for all POTWs in a specific section of the data base.

Example: To review all the responses for a particular facility, first use the Data Element Dictionary to determine the Survey I.D. number. Begin with section I.1, find the state in which the facility is located, then find the Survey I.D. number for the facility. Read across the coded responses, AQ1A through AQ3E, for the section. Proceed to section I.2, follow the same procedure for identifying the facility and read across the coded responses AQ3F through AQ9B4(OTH). Continue this procedure for the remaining subsections (I.3 through I.11) of section I. The coded responses for AQ36A through AQ36F will indicate the use or disposal practice identified by the facility and will make the review of sections II through VII easier. Once you have determined the practice identified by the facility you need only to review the section or sections corresponding to that practice. For instance, if the facility only identifies AQ36A which corresponds to land application, you need only review section II.1 and section II.2. Follow the same procedures for identifying the facility and read across the coded responses as you did for section I.1 through I.11.

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Today EPA is noticing the availability of information and data from the National Sewage Sludge Survey and its anticipated impacts on the proposed 40 CFR part 503 Sewage Sludge Use and Disposal Regulations (54 FR 5746–5902; February 6, 1989).

LaJuana S. Wilcher,

Assistant Administrator, Office of Water.

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federal register

Friday
November 9, 1990

Part IV

Environmental Protection Agency

40 CFR Part 721

Reproposal of Significant New Uses of Certain Chemical Substances; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50587; FRL-3796-4]

RIN 2070-AB27

Reproposal of Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for several chemical substances which were the subject of premanufacture notices (PMNs), are subject to TSCA section 5(e) consent orders issued by EPA, and are subject to previously proposed SNURs under TSCA. This proposal would require certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing activity designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, prohibit or limit that activity before it can occur.

DATES: Written comments must be submitted to EPA by December 10, 1990.

ADDRESSES: Since some comments may contain confidential business information (CBI), all comments must be sent in triplicate to: TSCA Document Receipt Office (TS-790), Office of Toxic Substances, Environmental Protection Agency, Room E-105, 401 M St., SW., Washington, DC 20460. Comments should include the docket control number. The docket control number for each of the new chemical substances covered in this SNUR is OPTS-50587, followed by the last four digits of the number of the proposed CFR section covering that chemical substance. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit X. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-543-B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This proposed SNUR would require certain persons to notify EPA at least 90 days before commencing any activity designated herein as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first SNURs issued under the Expedited Follow-Up Rule and published at 55 FR 17376 on April 24, 1990. This document reproposes SNURsfor substances for which EPA proposed SNURs prior to the adoption of the expedited process. These original proposals are being revised and restructured in the new format established for regulation under 40 CFR part 721. The following table reflects the chemicals that are the subject of this proposed rule along with the citations to the original **Federal Register** publication.

Table.— Chemicals Subject to This Significant New Use Rule

[Publication History]

Chemical	Proposed CFR Cite	Publication Date	Redesignated
P-83-769	40 CFR 721.240	49 FR 38310, 9/28/84	40 CFR 721.660
P-83-817	40 CFR 721.300	49 FR 42960, 10/25/84	40 CFR 721.850
P-83-818	40 CFR 721.300	49 FR 42960, 10/25/84	40 CFR 721.850
P-83-906	40 CFR 721.240	49 FR 38303, 9/28/84	40 CFR 721.1029
P-83-908	40 CFR 721.104	49 FR 38303, 9/28/84	40 CFR 721.315
P-83-909	40 CFR 721.100	49 FR 38303, 9/28/84	40 CFR 721.305
P-83-910	40 CFR 721.125	49 FR 38303, 9/28/84	40 CFR 721.425
P-83-1023	40 CFR 721.140	49 FR 36880, 9/20/84	40 CFR 721.1600
P-83-1085	40 CFR 721.54	50 FR 34500, 8/26/85	40 CFR 721.235
P-84-7	40 CFR 721.1017	51 FR 1396, 1/13/86	40 CFR 721.2150
P-84-176	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-180	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-181	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-182	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-183	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-184	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-341	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-342	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-343	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-344	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-417	40 CFR 721.440	50 FR 11391, 3/21/85	40 CFR 721.1425
P-84-1042	40 CFR 721.433	51 FR 10027, 3/24/86	40 CFR 721.1375
P-85-703	40 CFR 721.76	51 FR 22831, 6/23/86	40 CFR 721.285
P-86-83	40 CFR 721.175	51 FR 26557, 7/24/86	40 CFR 721.460
P-86-542	40 CFR 721.330	52 FR 26557, 3/25/87	40 CFR 721.1025

Consult the preamble of the Expedited Follow-Up Rule for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of rule to uses occurring before the effective date of the final rule. Other provisions for SNURs appear under subparts B, C, and D of 40 CFR part 721. [See 54 FR 31306 (July 27, 1989).] These provisions describe standard significant new use designations, recordkeeping requirements, and expedited SNUR procedures. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(d)(1) and 5(b), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under sections 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

III. Substances Subject to This Proposed Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substances under § 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name, CAS number (if assigned), the effective date of the 5(e) order where applicable, the basis for each section 5(e) order where applicable, toxicity concern, any recommended tests identified, and the CFR citation assigned in the regulatory text section of this rule. EPA has previously proposed a SNUR for all the chemical substances subject to this rule as referenced in the preamble for each substance.

Most of the original SNUR proposals, corresponding public comments, and subject section 5(e) orders were created 4 to 6 years ago. Regulatory requirements and procedures in section 5(e) orders and SNURs have significantly changed since that time. Rather than individually issue each of these SNURs, the most efficient and equitable method to promulgate these SNURs is to repropose and finalize them under the Expedited Follow-Up Rule.

To determine what would constitute significant new uses of these substances, EPA considered relevant information about the toxicity of the substances, likely exposures associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA.

Some of the earlier section 5(e) orders contain provisions that required wording changes to be converted into SNURs. In some instances, the SNUR text is merely more detailed (e.g., the provision for a written hazard communication program in § 721.72(a) is more detailed than the hazard communication provisions in some earlier orders or the provision for dermal protection in § 721.63(a)(1) and (a)(3) is worded differently from dermal protection provisions in some earlier orders). In such cases, EPA considers the SNUR and section 5(e) provisions to be generally equivalent. Moreover, the companies which entered into the more limited hazard communication provisions of the earlier 5(e) orders as well as those companies covered by the SNURs, are now generally subject to the requirements of OSHA's hazard communication standard at 29 CFR 1910.1200. Therefore, EPA believes it equitable and minimally burdensome to include in the SNUR those requirements of the hazard communication standard that are generally considered to be acceptable in informing workers of potential chemical hazards. These section 5(e) consent orders and the original SNUR proposals contain limited recordkeeping requirements. EPA is proposing more extensive recordkeeping requirements in these SNURs. Without a requirement to keep appropriate records, EPA cannot expect to document if manufacturers and processors are complying with SNUR regulations.

In some instances, however, a particular requirement may be so differently worded from the corresponding SNUR provision that the basis of the SNUR provision is not evident. Where this occurs, the preamble below explains why the SNUR provision was chosen.

The substances designated P-84-176, P-84-180, P-84-181, P-84-182, P-84-183, P-84-184, P-84-341, P-84-342, P-84-343, P-84-344, and P-85-703 contain section 5(e) order provisions banning spray application. In their corresponding SNURs, EPA does not propose to ban spray application but to require respiratory protective equipment under conditions where inhalation exposure, expected only during spray application, is possible. EPA considers the SNUR and section 5(e) provisions to be generally equivalent in this case. In addition, by allowing spray application when workers are adequately protected, EPA will avoid future unnecessary Significant New Use Notices (SNUNs) if manufacturers, processors, or users decide to spray apply these substances. The section 5(e) orders have labeling requirements that state "spray application is not permitted". In accordance with allowing spray application EPA is also proposing labeling requirements that state "use respiratory protection when spray applied" or "avoid breathing when spray applied".

The substances designated P-84-176, P-84-180, P-84-181, P-84-182, P-84-183, P-84-184, P-84-341, P-84-342, P-84-343, P-84-344, and P-85-703 also limit use of the PMN substances to the specific use in the section 5(e) consent order. EPA is proposing that only consumer uses be designated a significant new use. All of these chemicals fall under the category of acrylates. EPA's policy in regulating new acrylate chemicals under section 5(e) is to allow nonconsumer uses as long as adequate worker protection and hazard communication requirements are followed. This policy is based on EPA's extensive experience regulating acrylates as new chemicals under section 5(e). By allowing nonconsumer uses when workers are adequately protected, EPA avoids future unnecessary SNUNs when manufacturers, processors, or users develop other specific uses for the substances.

Some of the SNURs that contain worker protection or hazard communication provisions, (i.e., the substances designated P-83-1023, P-84-7, P-84-105, P-84-106, P-84-107, P-84-176, P-84-180, P-84-181, P-84-182, P-84-183, P-84-184, P-84-341, P-84-342, P-84-343, P-84-344, P-84-417, P-84-1042, P-85-703, and P-86-83) provide an exemption from such provisions if the substances are present at low levels and are not expected to be reconcentrated in mixtures. The exemptions are provided in § 721.63(b) and § 721.72(c) and will make these SNURs consistent with those based on more recent section 5(e) orders. If a substance was determined to pose a cancer concern by structure-activity analysis or actual data (as described in the preamble that follows), it is exempt only if the level of the substance in the mixture is 0.1 percent or less. All other substances must not exceed a 1.0 percent level in a mixture

in order to qualify for the exemption. EPA's decision to allow exemptions at these levels was based on the Occupational Safety and Health Administration's hazard communication standard exemption of MSDS requirements § 1910.1200 (g)(2)(i)(C)(1) and (2) when substances are present at such low levels in mixtures.

The specific uses which are proposed to be designated as significant new uses are cited in the regulatory text section of this rule. The requirements specified by these citations will be found in 40 CFR 721.50 through 40 CFR 721.91, subpart B of part 721. Subpart B was published in the **Federal Register** of July 27, 1989 (54 FR 31298).

PMN Numbers: P-83-817 and P-83-818

Chemical name: (generic) [(Dinitrophenyl)azo]-[2,4-diamino-5-methoxybenzene] derivatives.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 49 FR 42960 on October 25, 1984.
Basis for action: The PMN substances will be used as disperse blue dyes. Test data on certain phenylenediamines, which are structurally similar to the anticipated phenylenediamine products resulting from azo reduction of P-83-817 and P-83-818, indicate that expected metabolites of the PMN substances may cause cancer. EPA determined that use of the substances in a liquid or paste form as described in the PMN did not present an unreasonable risk because only dermal exposure would occur as inhalation exposure of the liquid or paste was unlikely. Dermal absorption of the PMN substances is not expected because of their high molecular weight and azo reduction is not expected to occur on the skin. EPA has determined that use of the PMN substances as dry solids or powders could result in ingestion or swallowing of inhaled particles of the PMN substances. After azo reduction, exposure to potentially cancer-causing chemicals could occur. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(D) and § 721.170(c)(2)(ii).
Recommended testing: A 2-year, two-species oral rodent bioassay (40 CFR 798.3300) to assess potential carcinogencity.
CFR citation: 40 CFR 721.850.

PMN Number: P-83-769

Chemical name: (generic) Substituted bromothiophene.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 49 FR 38310 on September 28, 1984.
Effective date of section 5(e) consent order: November 9, 1983.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2-year rodent oncogenicity study as described in 40 CFR 798.3300 to characterize possible carcinogenicity.
CFR citation: 40 CFR 721.660.

PMN Number: P-83-906

Chemical name: (generic) Brominated aryl alkyl ether.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 49 FR 38303 on September 28, 1984.
Effective date of section 5(e) consent order: November 18, 1983.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause hepatotoxicity in test animals.
Recommended testing: Long-term feeding studies in rodents.
CFR citation: 40 CFR 721.1029.

PMN Number: P-83-908

Chemical name: (generic) Ethylated aminophenol.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 49 FR 38303 on September 28, 1984.
Effective date of section 5(e) consent order: November 18, 1983.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause reproductive effects in test animals.
Recommended testing: Long-term reproductive effects testing in rodents.
CFR citation: 40 CFR 721.315.

PMN Number: P-83-909

Chemical name: (generic) Aminophenol.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 49 FR 38303 on September 28, 1984.
Effective date of section 5(e) consent order: November 18, 1983.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause reproductive effects in test animals.
Recommended testing: Long-term reproductive effects testing in rodents.
CFR citation: 40 CFR 721.305.

PMN Number P-83-910

Chemical name: (generic) Anilino ether.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 49 FR 38303 on September 28, 1984.
Effective date of section 5(e) consent order: November 18, 1983.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause reproductive effects in test animals.
Recommended testing: Long-term reproductive effects testing in rodents.
CFR citation: 40 CFR 721.425.

PMN Number P-83-1023

Chemical name: (generic) Phosphine, dialkylphenyl.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 49 FR 36880 on September 20, 1984.
Effective date of section 5(e) consent order: January 16, 1984.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause neurotoxicity in test animals.
Recommended testing: Subchronic neurotoxicity testing in the dog, cat, or rat.
CFR citation: 40 CFR 721.1600.

PMN Number P-83-1085

Chemical name: (generic) Halogenated-*N*-(2-propenyl)-*N*-[substituted phenyl] acetamide.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 50 FR 34500 on August 26, 1985.
Effective date of section 5(e) consent order: December 6, 1983.

Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2-year two-species oncogenicity bioassay.
CFR citation: 40 CFR 721.235.

PMN Number P-84-7

Chemical name: N,N,N',N'-tetrakis(oxiranylmethyl)-1,3-cyclohexane dimethamine.
CAS number: 65992-66-7.
Reference to previous SNUR proposal: Published at 51 FR 1396 on January 13, 1986.
Effective date of section 5(e) consent order: October 3, 1984.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer and reproductive effects in test animals.
Recommended testing: A 90-day subchronic inhalation study, a 2-year dermal carcinogenicity study, and a two-generation reproduction study.
CFR citation: 40 CFR 721.2150.

PMN Numbers: P-84-176, P-84-180, P-84-181, P-84-182, P-84-183, P-84-184

Chemical names: (generic) Alkanetriol dimethacrylate, substituted (P-84-176); polyalkylene glycol monomethacrylate, substituted (P-84-180); polyalkyl alkanediol monoacrylate, substituted (P-84-181); alkanetriol polyalkylene glycol ester acrylate, substituted (P-84-182); alkylene glycol monomethacrylate, substituted (P-84-183); and polyalkyl alkanediol monomethacrylate, substituted (P-84-184).
CAS number: Not available.
Reference to previous SNUR proposal: Published at 50 FR 12046 on March 27, 1985.
Effective date of section 5(e) consent order: June 6, 1984.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2-year two-species rodent bioassay according to 40 CFR 798.3300.
CFR citation: 40 CFR 721.285.

PMN Numbers P-84-341, P-84-342, P-84-343, and P-84-344

Chemical names: 2-Oxepanone, homopolymer, ester with 3-hydroxy-2,2-dimethylpropanoic acid (2:1), di-2-propenoate (P-84-341), 2-oxepanone, homopolymer, 2-propenoate, [tetrahydro-2-furanyl] methyl ester, (P-84-342), 2-oxepanone, homopolymer, 2-propenoate, ester with 2,2'-[oxybis(methylene)] bis[2-hydroxymethyl]-1,3-propanediol (P-84-343), and 2-propenoic acid, [2-[1,1-dimethyl2-[(1-oxo-2-propenyl)oxyethyl]-5-ethyl-1,3-dioxan-5-yl] methyl ester (P-84-344).
CAS numbers: P-84-341, 96915-49-0; P-84-342, 96915-50-3; P-84-343, 96915-52-5; P-84-344, 87320-05-6
Reference to previous SNUR proposal: Published at 51 FR 11591 on April 4, 1986.
Effective date of Section 5(e) consent order: June 13, 1984.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2-year two-species rodent bioassay according to 40 CFR 798.3300.
CFR citation: 40 CFR 721.285.

PMN Number P-84-417

Chemical name: (generic) Methylphenol, bis(substituted)alkyl.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 50 FR 11391 on March 21, 1985.
Effective date of section 5(e) consent order: August 17, 1984.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause liver, kidney, and respiratory effects.
Recommended testing: A 28-day dermal subchronic study.
CFR citation: 40 CFR 721.1425.

PMN Number P-84-1042

Chemical name: Carbamodithioic acid, methyl-, compound with methanamine (1:1).
CAS number: Not available.
Reference to previous SNUR proposal: Published at 51 FR 10027 on March 24, 1986.
Effective date of section 5(e) consent order: February 8, 1985.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause carcinogenicity, developmental toxicity, and neurotoxicity.
Recommended testing: A 2-year two-species rodent bioassay, a two-generation reproductive study, a two-species teratology study, repeated exposure and neuropathy testing with correlative functional observation, and acute exposure neurotoxicity testing.
CFR citation: 40 CFR 721.1375.

PMN Number P-85-703

Chemical name: 2-Propanol, 1-amino-, reaction products with melamine, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxy ethyl acrylate-blocked.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 51 FR 22831 on June 23, 1986.
Effective date of section 5(e) consent order: September 12, 1985.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause carcinogenicity and neurotoxicity.
Recommended testing: A 2-year two-species rodent oncogenicity study as described in 40 CFR 798.3300.
CFR citation: 40 CFR 721.285.

PMN Number P-86-83

Chemical name: Benzenamine, 3-chloro-2,6-dinitro-*N,N*-dipropyl-4-(trifluoromethyl)-.
CAS number: 29091-20-1.
Reference to previous SNUR proposal: Published at 51 FR 26557 on July 24, 1986.
Effective date of section 5(e) consent order: April 10, 1986.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

Toxicity concern: Similar substances have been shown to cause carcinogenicity, developmental effects, and reproductive effects.
Recommended testing: A carcinogenicity bioassay, a teratogenicity study, a reproduction study, and a fertility study.
CFR citation: 40 CFR 721.460.

PMN Number P-86-542

Chemical name: Ethanol, 2-amino-, compound with *N*-hydroxy-*N*-nitroso benzenamine (1:1).
CAS number: 105658-30-8.
Reference to previous SNUR proposal: Published at 52 FR 9508 on March 25, 1987.
Effective date of section 5(e) consent order: July 25, 1986.
Basis of section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause carcinogenicity and chronic blood and spleen effects.
Recommended testing: A 2-year two-species cancer bioassay to address carcinogenicity concerns and a 90-day oral subchronic study to address blood and spleen effects.
CFR citation: 40 CFR 721.1025.

IV. Objectives and Rationale of the Proposed Rule

During review of the PMNs submitted for the chemical substances that would be subject to this proposed SNUR, EPA concluded that for all except two of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health or environmental effects of the substance. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters, and SNURs proposed for such substances which are consistent with the provisions of the section 5(e) orders.

In the case of P-83-817 and P-83-818, for which the proposed uses are not regulated under a section 5(e) order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met.

EPA is proposing SNURs for 25 specific chemical substances which have undergone premanufacture review to ensure the following objectives: (1) EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; (2) EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; (3) when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and (4) all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements.

EPA is reproposing the SNUR for each substance in this rule. Public comments were received concerning most of the previous proposals. However, since the time of the initial proposals, regulatory requirements and procedures in section 5(e) orders and SNURs have significantly changed. EPA has concluded that reproposing the SNURs and addressing new public comments, if any, for these substances is the best approach to promulgating the SNURs.

V. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require persons to develop any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. The studies specified in the section 5(e) order may not be the only means of addressing the potential risks of the substance. SNUR notice submitters should be aware that the Agency will be better able to evaluate SNUR notices which provide detailed information on: (1) Human exposure and environmental release that may result from the significant new use of the chemical substances; (2) potential benefits of the substances; and (3) information on risks posed by the substances compared to risks posed by potential substitutes.

VI. Applicability of Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

For a use to be a significant "new" use, EPA must determine that the use is not ongoing. When the PMN submitter begins manufacture or import of the substances, the submitter must send EPA a Notice of Commencement of Manufacture/Import (NOC) and the substances will be added to the Inventory. In those cases where a section 5(e) order has been issued, the notice submitters are prohibited by the section 5(e) orders from undertaking activities which the Agency is designating as a significant new use. In addition, because most of these substances have CBI chemical identities and only a very few *bona fide* inquiries have been received for substances that have undergone PMN review, there is little chance that others are undertaking activities which the Agency is designating as a significant new use. Therefore, at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in these SNURs are added to the Inventory prior to their promulgation, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

Each chemical substance which is the subject of a proposed SNUR in this document was originally proposed previously, as noted in the table in the Supplementary Information section and in Unit III. of the preamble. These proposed rules were issued prior to the effective date of the Expedited Follow-Up Rule. The original proposals have been revised and restructured in the new format established under 40 CFR part 721 with terms that are generally equivalent to those in the original proposal. EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of the original proposal rather than as of the effective date of the rule. If uses which had commenced between the date of the original proposal and the effective date were considered ongoing, rather than new, any person could defeat the SNURs by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements.

Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is

promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VII. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances contained in this proposed rule. The Agency's complete economic analysis is available in the public record for this proposed rule (OPTS-50587).

VIII. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a public version of the comments that EPA can place in the public file.

IX. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50587). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received.

EPA will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record without any confidential business information is available in the TSCA Public Docket Office from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NE-G004, 401 M St., SW., Washington, DC.

X. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule would not be a "major" rule because it would not have an effect on the economy of $100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,500 to $11,000, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice.

EPA believes that, because of the nature of the proposed rule and the substances involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this proposed rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this proposed rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the --number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information requirements contained in this proposal.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: November 1, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.235 to subpart E to read as follows:

§ 721.235 Halogenated-N-(2-propenyl)-N-[substituted phenyl] acetamide.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as halogenated-*N*-(2-propenyl)-*N*-[substituted phenyl] acetamide (P-83-1085) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (e), and (i).

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

3. By adding new § 721.285 to subpart E to read as follows:

§ 721.285 Certain acrylates and methacrylate chemicals.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkanetriol dimethacrylate, substituted (P-84-176); polyalkylene glycol monomethacrylate, substituted (P-84-180); polyalkyl alkanediol monoacrylate, substituted (P-84-181); alkanetriol polyalkylene glycol ester acrylate, substituted (P-84-182); alkylene glycol monomethacrylate, substituted (P-84-183); polyalkyl alkanediol monomethacrylate, substituted (P-84-184); 2-oxepanone, homopolymer, ester with 3-hydroxy-2,2-dimethylpropanoic acid (2:1), di-2-propenoate (P-84-341); 2-oxepanone, homopolymer, 2-propenoate, [tetrahydro-2-furanyl]methyl ester, (P-84-342); 2-oxepanone, homopolymer, 2-propenoate, ester with 2,2'-[oxybis(methylene)] bis[2-hydroxymethyl]-1,3-propanediol (P-84-343); 2-propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl) oxyethyl]-5-ethyl-1,3-dioxan-5-yl] methyl ester (P-84-344); and 2-propanol, 1-amino-, reaction products with melamine, polymer with 5-isocyanato-1-(isocyanatomethyl)-,3,3-trimethylcyclohexane, 2-hydroxyethyl, acrylate-blocked (P-85-703) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). The statement "when spray applied" shall appear with the statements required under (g)(2)(ii) and (g)(2)(iv).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(3) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(i) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (j).

(ii) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

4. By adding new § 721.305 to subpart E to read as follows:

§ 721.305 Aminophenol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as aminophenol (P-83-909) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

5. By adding new § 721.315 to subpart E to read as follows:

§ 721.315 Ethylated aminophenol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as ethylated aminophenol (P-83-908) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

6. By adding new § 721.425 to subpart E to read as follows:

§ 721.425 Anilino ether.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as anilino ether (P-83-910) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

7. By adding new § 721.460 to subpart E to read as follows:

§ 721.460 Benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4(trifluoromethyl)-.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as benzenamine, 3-chloro-2,6-dinitro-*N,N*-dipropyl-4-(trifluoromethyl)- (P-86-83) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(vii), (g)(1)(ix), (g)(2)(i), and (g)(2)(v). The provision of § 721.72(d) requiring that employees be provided with information on the location and availability of MSDSs does not apply when an MSDS is not required under § 721.72(c). The provision of § 721.72(g) requiring placement of specific information on an MSDS or label does not apply when an MSDS and label are not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(h).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(3), (b)(1), (b)(3), (c)(1), and (c)(3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (f), (i), and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

8. By adding new § 721.660 to subpart E to read as follows:

§ 721.660 Substituted bromothiophene.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted bromothiophene (P-83-769) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(iv), (a)(5)(v), and (a)(6)(i).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(iv). The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

9. By adding new § 721.850 to subpart E to read as follows:

§ 721.850 [(Dinitrophenyl)azo]-[2,4-diamino-5-methoxybenzene] derivatives.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as [(dinitrophenyl)azo]-[2,4-diamino-5-methoxybenzene] derivatives (P-83-817 and P-83-818) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(v)(1), (v)(2), (w)(1), (w)(2), (x)(1), and (x)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

10. By adding new § 721.1025 to subpart E to read as follows:

§ 721.1025 Ethanol, 2-amino-, compound with N-hydroxy-N-nitrosobenzenamine (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethanol, 2-amino-, compound with *N*-hydroxy-*N*-nitrosobenzenamine (1:1) (P-86-542), is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(vii), (g)(2)(i), and (g)(2)(v).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(k) (monomer stabilizer).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

11. By adding new § 721.1029 to subpart E to read as follows:

§ 721.1029 Brominated arylalkyl ether.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as brominated arylalkyl ether (P-83-906) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

12. By adding new § 721.1375 to subpart E to read as follows:

§ 721.1375 Carbamodithioic acid, methyl-, compound with methanamine (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbamodithioic acid, methyl-, compound with methanamine (1:1) (P84-1042), is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(1)(vi), and (g)(2)(i). The provision of § 721.72(d) requiring that employees be provided with information on the location and availability of MSDSs does not apply when an MSDS is not required under § 721.72(c). The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(k).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(2), (b)(2), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (g), (i), and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

13. By adding new § 721.1425 to subpart E to read as follows:

§ 721.1425 Methylphenol, bis(substituted)alkyl.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as methylphenol, bis(substituted)alkyl (P-84-417) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(1)(iv), (g)(2)(i), and (g)(2)(v).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(k) (antioxidant/stabilizer for polymers) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

14. By adding new § 721.1600 to subpart E to read as follows:

§ 721.1600 Phosphine, dialkylphenyl.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as phosphine, dialkylphenyl (P-83-1023) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (d), (e) (concentration set at 1 percent), (f), (g)(1)(iii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), and (g)(2)(v). The provision of § 721.72(d) requiring that employees be provided with information on the location and availability of MSDSs does not apply when an MSDS is not required under § 721.72(c). The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Disposal.* Requirements as specified in § 721.85 (a)(2), (b)(2), and (c)(2).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(3), (b)(3), and (c)(3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (g), (i), (j), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

15. By adding new § 721.2150 to subpart E to read as follows:

§ 721.2150 N,N,N',N'-tetrakis(oxiranylmethyl)-1,3-cyclohexanedimethanamine.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as *N,N,N',N'*-tetrakis(oxiranylmethyl)-1,3-cyclohexanedimethanamine (P-84-7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at

0.1 percent), (f), (g)(1)(vii), (g)(1)(viii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (h).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

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federal register

Friday
November 9, 1990

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Restriction on Certain Flights From the United States to Iraq or Kuwait; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26380; Special Federal Aviation Regulation (SFAR) No. 61]

Restriction on Certain Flights From the United States to Iraq or Kuwait

AGENCY: Federal Aviation Administration, (FAA), Department of Transportation, (DOT).

ACTION: Final rule.

SUMMARY: This action prohibits the takeoff from or overflight of the territory of the United States by an aircraft carrying cargo on a flight to the Republic of Iraq or the Republic of Kuwait, with an exception for medicines or approved humanitarian food supplies. This action also prohibits the takeoff or overflight by any such aircraft from the territory of the United States on a flight to any intermediate destination, the ultimate destination of which is Iraq or Kuwait. This action is taken to prevent an undue hazard to the aircraft that would be engaged in such a flight, as well as to persons involved in the flight, in response to United Nations (UN) Security Council Resolution 670 (1990) mandating an embargo of air traffic with Iraq. Issuance of this rule implements and is fully consistent with Resolution 670.

DATES: *Effective date:* November 9, 1990. *Expiration date:* November 9, 1991.

FOR FURTHER INFORMATION CONTACT: Sheila Hughes Rodriguez, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and the safety of U.S.-registered aircraft throughout the world. Under section 103 of the Federal Aviation Act of 1958 (Act), as amended, the FAA is charged with the regulation of air commerce in a manner to best promote safety and fulfill the requirements of national security. In addition, section 1102(a) of the Act requires that the FAA Administrator exercise his authority consistent with any treaty obligations of the United States. The United States is a party to the Charter of the United Nations (Charter) (59 Stat. 1031; 3 Bevans 1153). Articles 25 and 48 of the Charter require that Members of the United Nations carry out the decisions of the Security Council. Article 25 states:

> The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Additionally, Article 48 states, in pertinent part:

> The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all Members of the United Nations * * *.

On August 2, 1990, military forces of Iraq invaded Kuwait, seizing control of the country. Following the invasion, additional Iraqi military units were sent into Kuwait to occupy strategic positions. Iraq has subsequently announced a purported "annexation" of Kuwait. As a result of Iraq's continued illegal occupation of Kuwait and its refusal to rescind its actions, including the holding of third-state nationals against their will in violation of international humanitarian law, the UN Security Council, on August 6, 1990, adopted Resolution 661. Resolution 661, in pertinent part, prohibits the importation and transshipment from, and sale or supply to, Iraq or Kuwait of commodities or products, except for supplies intended strictly for medical purposes and, under humanitarian circumstances, food.

On September 25, 1990, acting under chapter VII of the UN Charter, the Security Council adopted Resolution 670 issuing an embargo of certain air traffic with Iraq. Paragraph 3 of Resolution 670 requires all states to deny permission to any aircraft to take off from their terrritory if the aircraft would carry any cargo to or from Iraq or Kuwait other than food provided under humanitarian circumstances, or supplies intended strictly for medical purposes, or solely for the UN Iran-Iraq Military Observer Group (UNIIMOG). Paragraph 4 imposes an obligation on all States to deny permission to any aircraft destined to land in Iraq or Kuwait to overfly its territory unless:

> (a) The aircraft lands at an airfield designated by that State outside Iraq or Kuwait in order to permit its inspection to ensure that there is no cargo aboard in violation of Resolutions 661 or 670;
>
> (b) The particular flight has been approved by the sanctions committee established by Resolution 661; or
>
> (c) The flight is certified by the UN as solely for the purposes of UNIIMOG.

The FAA expects that member states of the UN will take action to comply with UN Security Council Resolution 670. Such action would have the effect of denying overflight rights to aircraft carrying non-excepted cargo to Iraq or Kuwait unless such aircraft land at a designated airport for inspection. As a practical matter, no aircraft in common use can travel from U.S. territory to Iraq or Kuwait without an intermediate stop in a UN member state or passage through the airspace of a member state. Because such a routing would be affected by national overflight restrictions adopted pursuant to Resolution 670, the crew of a flight leaving the U.S. territory for Iraq or Kuwait could not be certain of a safe intermediate stopover point within the range of the aircraft. Nor could the crew be certain of the availability of alternate airports if weather or other conditions require the diversion or unplanned landing of the aircraft. As a result, the FAA believes that a flight from the U.S. to Iraq or Kuwait during the effective period of UN Resolution 670 could not be planned with assurance that the aircraft would have safe primary and alternate landing points within the fuel range of the aircraft. There is substantial risk, therefore, that such a flight would not be conducted safely.

Second, the Government of Iraq has prevented the departure of civilian foreign nationals, and the current status of many such persons in Iraq is unknown. Accordingly, the safety of aircrews arriving in Iraq on a flight cannot be assumed.

The United States Government has taken several actions to restrict air transportation between the United States and Iraq and Kuwait. On August 2, 1990, the President issued Executive Order 12722 (55 FR 31803, August 3, 1990), which prohibits "any transaction by a United States person relating to transportation to or from Iraq; the provision of transportation to or from the United States by any Iraqi person or any vessel or aircraft of Iraqi registration; or the sale in the United States * * * of any transportation by air which includes any stop in Iraq;" and

defines "United States person" so as to include any person within the United States.

On August 6, 1990, the Secretary of Transportation issued Order 90-8-16, which implements Executive Order 12722 by amending all Department of Transportation (DOT) certificates issued under section 401 of the Federal Aviation Act, all permits issued under sections 402 of the Act, and all exemptions from sections 401 and 402 to prohibit the holder from selling or engaging in transportation by air to Iraq, or engaging in any transaction relating to transportation to or from Iraq.

Executive Order 12722 cited the President's authority under the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*, the National Emergencies Act, 50 U.S.C. 1601 *et seq.*, and section 301 of title 3 of the United States Code, 3 U.S.C. 301, but did not cite the United Nations Participation Act of 1945, as amended. Section 5(a) of this Act provides that:

> Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided * * * to be employed to give effect to its decisions under the [The United Nations] Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, or regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations of rail, sea, air * * * between any foreign country or to any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof * * *

22 U.S.C. 287(c).

On August 9, 1990, the President, exercising his authority under, *inter alia*, the United Nations Participation Act, issued Executive Orders No. 12724 and 12725 (55 FR 33089, 33091, August 13, 1990), pertaining to Iraq and Kuwait, respectively. These orders, which contain prohibitions on air transportation to Iraq and Kuwait that are substantially the same as those contained in Executive Order No. 12722 relating to Iraq, were issued in order to take additional steps with respect to Iraq's invasion of Kuwait and the national emergency declared in Executive Order No. 12722. On August 17, 1990, the Secretary issued Order 90-8-36, which extends the same prohibitions on air transportation to or from Kuwait as previously applied to Iraq under DOT Order 90-8-16.

Copies of the August 6 and September 25 UN Resolutions; Executive Orders 12722, 12724 and 12725; and DOT Orders 90-8-16 and 90-8-36 have been placed in the docket for this rulemaking.

Temporary Restrictions on Flights Leaving the United States

On the basis of the above, and after consultation with the Department of State, I find that the circumstances which currently exist in the Persian Gulf, including the closure of airspace and landing sites in countries situated between the United States and the Gulf area to aircraft carrying certain cargo to Iraq and Kuwait, represent a hazard to any aircraft used for that purpose as well as to the persons on board that aircraft. Accordingly, these circumstances require immediate action by the FAA in order to maintain the safety of flight and in order to meet obligations under international law. For these reasons, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. For the same reason, I also find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under section 1102(a) of the Federal Aviation Act to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

The rule contains an expiration date of November 9, 1991, but may be terminated sooner or extended if circumstances in effect at that time warrant.

Regulatory Evaluation

The potential cost of this regulation is limited to the net revenue of commercial flights between the United States and the Republic of Iraq or between the United States and the State of Kuwait. However, revenue flights to Iraq and Kuwait are currently prohibited by DOT Orders 90-8-16 and 90-8-36. Accordingly, this action will impose no additional burden on those operators.

Benefits in the form of potential prevention of injury to persons and damage to property are not quantifiable and most likely would occur outside the United States. For these reasons, the costs and benefits of the regulation considered under DOT Regulatory Policies and Procedures are minimal, and a further regulatory evaluation will not be conducted.

Conclusion

The FAA has determined that this action (1) is not a "major rule" under Executive Order 12291; and (2) is considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Federalism Determination

The amendment set forth herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 91

Aviation safety, Republic of Iraq, State of Kuwait.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by P.L. 100-223), 1422 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*; E.O. 11514; P.L. 100-202; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By adding Special Federal Aviation Regulation (SFAR) No. 61 to read as follows:

Special Federal Aviation Regulation No. 61

Restriction on Certain Cargo Flights From the United States to the Republic of Iraq or to the State of Kuwait

1. *Applicability.* This rule applies to all cargo-carrying operations in the United States.

2. *Special flight restrictions.* Except as provided in paragraph 3 of this SFAR—

(a) No person may operate an aircraft or initiate a flight carrying cargo from any point in the United States to any point in Iraq or Kuwait, or to any intermediate destination on a flight the ultimate destination of which is the Republic of Iraq or the State of Kuwait; and

(b) No person may operate an aircraft destined to land in Iraq or Kuwait over the territory of the United States.

3. *Permitted operations.* This SFAR shall not prohibit the takeoff of an aircraft, the initiation of a flight, or the overflight of United States territory by an aircraft—

(a) Carrying food in humanitarian circumstances, subject to authorization by the United Nations (UN) Security Council or the Committee established by UN Resolution 661 (1990) and in accordance with UN Resolution 666 (1990);

(b) Carrying supplies intended strictly for medical purposes or solely for the United Nations Iran-Iraq Military Observer Group; or

(c) If the operator agrees to land at an airport designated by the United States Government in order to permit inspection to ensure that there is no cargo on board in violation of Resolution 661 (1960) or Resolution 670 (1990).

4. *Expiration.* This special rule expires November 9, 1991.

Issued in Washington, DC on November 6, 1990.

James B. Busey,

Administrator.

[FR Doc. 90-26570 Filed 11-8-90; 8:45 am]

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669 46214
Proposed Rules:
17 ..... 46080, 46963, 47081
60 46968
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663 46841
675 46082

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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